

# **Exhibit A**

FREEDOM COURT REPORTING

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1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE MIDDLE DISTRICT OF ALABAMA  
3           SOUTHERN DIVISION

4  
5       KAREN LURIE,

6                       Plaintiff,

7       versus

1:06-CV-0034MEF

8       GLOBE LIFE AND ACCIDENT

9       INSURANCE COMPANY, et al.,

10                      Defendants.  
11  
12

13                      \* \* \* \* \*

14  
15           DEPOSITION OF JOHN H. ALLEN,

16   taken pursuant to stipulation and agreement

17   before Jackie Parham, Certified Shorthand

18   Reporter and Commissioner for the State of

19   Alabama at Large, in the law offices of

20   Beasley, Allen, Crow, Methvin, Portis & Miles,

21   272 Commerce Street, Montgomery, Alabama, on

22   Thursday, the 7th day of December, 2006,

23   commencing at approximately 9:30 a.m.

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 APPEARING ON BEHALF OF THE PLAINTIFF:</p> <p>4 CHRISTOPHER E. SANSPREE, ESQUIRE</p> <p>5 Beasley, Allen, Crow, Methvin,</p> <p>6 Portis &amp; Miles</p> <p>7 272 Commerce Street</p> <p>8 Montgomery, Alabama 36104</p> <p>9</p> <p>10</p> <p>11 APPEARING ON BEHALF OF THE DEFENDANTS:</p> <p>12 PHILIP H. BUTLER, ESQUIRE</p> <p>13 Bradley, Arant, Rose &amp; White</p> <p>14 401 Adams Avenue</p> <p>15 Suite 780</p> <p>16 Montgomery, Alabama 36104</p> <p>17</p> <p>18</p> <p>19 * * * * *</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX OF EXHIBITS</p> <p>2</p> <p>3 DX-1 (Allen depo in Moorer case) ..... 13</p> <p>4 DX-1A (Page 158 of Allen depo in Moorer case) ..... 13</p> <p>5</p> <p>6 DX-2 (CV) ..... 16</p> <p>7 DX-3 (John Allen depo in Provident case) ..... 23</p> <p>8</p> <p>9 DX-3A (Pages 33 - 36 of John Allen depo in Provident case) ..... 23</p> <p>10</p> <p>11 DX-4 (John Allen depo in American Fidelity case) ... 32</p> <p>12</p> <p>13 DX-4A (Page 19 of John Allen depo in Am. Fidelity case) ... 32</p> <p>14</p> <p>15 DX-1B (Page 25 of John Allen depo in Moorer case) ... 36</p> <p>16</p> <p>17 DX-5 (John Allen depo in American Pioneer case) ... 55</p> <p>18</p> <p>19 DX-5A (Page 16 of depo of John Allen in Am. Pioneer case) ..... 55</p> <p>20</p> <p>21 DX-6 (Cover of book entitled Liability Claim Practices) ..... 68</p> <p>22</p> <p>23</p>
<p style="text-align: right;">Page 3</p> <p>1 STIPULATION</p> <p>2 It is hereby stipulated and agreed by</p> <p>3 and between counsel representing the parties</p> <p>4 that the deposition of</p> <p>5 JOHN H. ALLEN</p> <p>6 may be taken before Jackie Parham, Certified</p> <p>7 Shorthand Reporter and Commissioner for the</p> <p>8 State of Alabama at Large, without the</p> <p>9 formality of a commission, and all formality</p> <p>10 with respect to other procedural requirements</p> <p>11 is waived; that objections to questions, other</p> <p>12 than objections as to the form of the question,</p> <p>13 need not be made at this time, but may be</p> <p>14 reserved for a ruling at such time as the said</p> <p>15 deposition may be offered in evidence or used</p> <p>16 for any other purpose, by either party, as</p> <p>17 provided for by the Federal Rules of Civil</p> <p>18 Procedure.</p> <p>19 It is further stipulated and agreed by</p> <p>20 and between the parties hereto and the witness</p> <p>21 that the signature of the witness to this</p> <p>22 deposition is hereby not waived.</p> <p>23</p>	<p style="text-align: right;">Page 5</p> <p>1 DX-6A (Chapter 4 of Liability Claim Practices' book) ..... 68</p> <p>2</p> <p>3 DX-7 (List of cases) ..... 69</p> <p>4 DX-8 (Report from Mr. Allen) ..... 82</p> <p>5 DX-9 (Current depo list) ..... 82</p> <p>6 DX-10 (Final Notice of premium due) ..... 88</p> <p>7</p> <p>8 DX-11 (Premiums and Reinstatement document) ... 95</p> <p>9</p> <p>10 DX-12 (Notebook) ..... 153</p> <p>11</p> <p>12 * * * * *</p> <p>13 INDEX OF EXAMINATION</p> <p>14 MR. BUTLER ..... 6</p> <p>15 MR. SANSPREE ..... 148</p> <p>16 MR. BUTLER ..... 151</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

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<p>1 JOHN H. ALLEN, 2 The witness, after having first been 3 duly sworn to speak the truth, the whole truth, 4 and nothing but the truth, testified as follows: 5 EXAMINATION 6 BY MR. BUTLER: 7 Q. Mr. Allen, would you please state your 8 full name, your residence address, and 9 your business address? 10 A. John H. Allen, 5721 Fifth Court South, 11 Birmingham, Alabama. Business address is 12 the same. 13 Q. So your office is out of your home? 14 A. Correct. 15 Q. All right. And what is your Social 16 Security number, please, sir? 17 A. 423-64-9141. 18 Q. And your date of birth? 19 A. 3/27/49. 20 Q. All right. What do you call your 21 business? 22 A. John H. Allen Consulting. 23 Q. Okay. Is there anybody associated with</p>	<p>1 Supposed to know these things, but close. 2 And she's a flight attendant out in Denver 3 with Sky West. And then I've got a 4 daughter, Rachel, who's about 5 twenty-three, twenty-four, and she's in 6 Washington, D.C. She's working with a 7 real estate firm up there. And then I've 8 got a seventeen-year-old, Austin, who is a 9 student in Birmingham. 10 Q. Okay. Is that all your children? 11 A. Yeah. 12 Q. Do you have a son named Grant? 13 A. Grant. That was -- That was through 14 another woman back -- back in the -- I 15 guess he's about fourteen, fifteen years 16 old, something like that, maybe a little 17 older. 18 Q. So when you told me you had four children, 19 you really have five children? 20 A. Yeah. Right. 21 Q. Okay. Have you ever been arrested for a 22 criminal offense, other than a normal 23 traffic offense?</p>
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<p>1 you in your business, or do you work by 2 yourself, or what? 3 A. Work by myself. Yes. 4 Q. Okay. Are you married? 5 A. Divorced. 6 Q. Okay. And please give me the names and 7 ages and where your children live, if you 8 have children. 9 A. Yeah. I've got four of them. Got a son, 10 John Clifford. He lives here in 11 Montgomery. He's thirty-three. Then I've 12 got a daughter, Natalie, who lives -- 13 Q. Let me interrupt you just a moment because 14 that'll save us some time, unbelievably. 15 A. All right. 16 Q. Your son, John, where does he work? 17 A. He works at Jackson Hospital. 18 Q. What's he do there? 19 A. He's an anesthetist. 20 Q. Got 'ya. All right. I interrupted. Go 21 ahead. 22 A. Okay. Then I've got a daughter, Natalie. 23 I think she's approximately twenty-five.</p>	<p>1 A. Yes. 2 Q. What's that? 3 A. 1978 for misdemeanor possession of 4 marijuana, and 2003 for a DUI. 5 Q. Is that all? 6 A. Yes. 7 Q. Okay. You've given a number of 8 depositions in your career, haven't you, 9 sir? 10 A. Yes. 11 Q. And you realize that your testimony is 12 under oath in those depositions as well as 13 this one here today? 14 A. Right. 15 Q. Okay. In 1978, were you convicted of that 16 offense? 17 A. I pled guilty to misdemeanor possession. 18 Q. Of marijuana? 19 A. Right. 20 Q. Okay. And is that when you were married 21 and had children? 22 A. Yes. 23 Q. Okay. It wasn't when you were a college</p>

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<p>1 student or anything?</p> <p>2 A. No.</p> <p>3 Q. Okay. And then you had a DUI in 2003; is</p> <p>4 that right?</p> <p>5 A. Right.</p> <p>6 Q. And that's the only thing you've been</p> <p>7 arrested for?</p> <p>8 A. Yes.</p> <p>9 Q. Isn't it a fact that you were arrested for</p> <p>10 and pled guilty to a felony drug offense</p> <p>11 in 2004?</p> <p>12 A. No.</p> <p>13 Q. In Clanton?</p> <p>14 A. No. I only pled guilty to a DUI.</p> <p>15 Q. Oh, is that right?</p> <p>16 A. Yeah. The rest was dismissed.</p> <p>17 Q. The drug conviction was dismissed?</p> <p>18 A. There wasn't any conviction.</p> <p>19 Q. I mean, the drug charge was dismissed?</p> <p>20 A. The allegations were dismissed. Yes.</p> <p>21 Q. You were arrested for that, weren't you?</p> <p>22 A. Yes.</p> <p>23 Q. What were you accused of with regard to</p>	<p>1 Chilton County?</p> <p>2 A. I believe that's correct.</p> <p>3 Q. With regard to the misdemeanor possession</p> <p>4 of marijuana in 1978, was that in</p> <p>5 Tuscaloosa County?</p> <p>6 A. Correct.</p> <p>7 Q. Have you ever lied under oath about that</p> <p>8 arrest?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. In depositions in civil cases?</p> <p>11 A. One deposition.</p> <p>12 Q. Okay. Was that in the Moorers versus</p> <p>13 Republic American Deposition?</p> <p>14 A. I don't recall which one that was in.</p> <p>15 Q. Was Dee Miles, one of the lawyers in this</p> <p>16 firm at Beasley, Allen, the lawyer when</p> <p>17 you did that?</p> <p>18 A. I don't know.</p> <p>19 Q. Let me see if I can refresh your</p> <p>20 recollection. I've got a copy. And what</p> <p>21 I'm going to ask the court reporter to do</p> <p>22 is just copy the first page of it so that</p> <p>23 we'll have the style, and then I have a</p>
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<p>1 the drug offense in Chilton County?</p> <p>2 A. That was concerning a minuscule amount of</p> <p>3 cocaine and a small amount of marijuana.</p> <p>4 Q. And were you also charged with possession</p> <p>5 of drug paraphernalia?</p> <p>6 A. Yeah.</p> <p>7 Q. And those were dismissed?</p> <p>8 A. Yes.</p> <p>9 Q. What was the disposition of the DUI?</p> <p>10 A. Paid a fine and went to the driving school</p> <p>11 thing.</p> <p>12 Q. Okay. Were you placed on probation?</p> <p>13 A. No, sir.</p> <p>14 Q. Who was your attorney in that action?</p> <p>15 A. Tommy --</p> <p>16 Q. Kirk?</p> <p>17 A. Kirk. Yeah.</p> <p>18 Q. When was it disposed of?</p> <p>19 A. 2000 -- Let's see. -- I can't remember</p> <p>20 whether it was 2005 or 2006.</p> <p>21 Q. Okay.</p> <p>22 A. May have been 2006.</p> <p>23 Q. Was this in front of Judge Fuller in</p>	<p>1 travel transcript, and just copy the page</p> <p>2 that's involved. If you want the rest of</p> <p>3 it, you're certainly welcome to it.</p> <p>4 MR. SANSPREE: I might have the</p> <p>5 whole thing. I don't have a</p> <p>6 copy.</p> <p>7 MR. BUTLER: I'll be glad to</p> <p>8 furnish it to you. But do</p> <p>9 you think we ought to</p> <p>10 clutter the Record by having</p> <p>11 the whole thing or --</p> <p>12 MR. SANSPREE: If it's easier</p> <p>13 just to mark it as an</p> <p>14 exhibit, she can just copy</p> <p>15 it. However you want to do</p> <p>16 it, Phil.</p> <p>17 (Defendant's Exhibit 1 marked</p> <p>18 for purposes of identification)</p> <p>19 (Defendant's Exhibit 1-A marked</p> <p>20 for purposes of identification)</p> <p>21 Q. Let me show you a copy, which is a</p> <p>22 condensed version or a travel transcript,</p> <p>23 of the deposition of Joseph Moorers versus</p>

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<p>1 Republic American Life Insurance Company.  2 And I have marked on page 158, I think,  3 the page number involved.  4 A. Yes.  5 Q. When you answered the question there,  6 "Have you ever been arrested," you  7 answered "No," and that was incorrect,  8 wasn't it?  9 A. Correct.  10 Q. And you knew it was incorrect when you  11 gave that answer, didn't you?  12 A. It was a judgment error.  13 Q. A judgment error?  14 A. Yes, sir.  15 Q. Is it a judgment error, in your view, as a  16 witness when you knowingly answer a  17 question falsely under oath?  18 A. I mean, it was a judgment error, and I  19 gave the wrong answer.  20 Q. Yes, sir. And you knew it was wrong at  21 the time you gave it, didn't you?  22 A. Yes.  23 Q. Approximately how many depositions have</p>	<p>1 A. I filed a grievance on a payment of a bill  2 with Jack Hollingsworth.  3 Q. Okay. What was the nature of the  4 grievance against Mr. Dodson?  5 A. Wasn't paying the bill.  6 Q. That was all?  7 A. Yes, sir.  8 Q. What was the disposition of that?  9 A. Paid the bill.  10 Q. With regard to your formal education,  11 Mr. Sansprey has been kind enough to  12 furnish me, along with your report, of  13 course, your curriculum vitae. As I  14 understand your formal education -- We can  15 just mark that as an exhibit. That will  16 be fine. Thank you, sir.  17 (Defendant's Exhibit 2 marked  18 for purposes of identification)  19 Q. Exhibit 2 is a copy of your current  20 curriculum vitae, is it not?  21 A. Correct.  22 Q. Have you reviewed that to see that it is,  23 in fact, current?</p>
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<p>1 you given in your career, Mr. Allen?  2 A. Fifty-eight.  3 Q. Fifty-eight?  4 A. Fifty-eight or fifty-nine. Yeah.  5 Q. To refresh your recollection, does it  6 appear that Dee Miles of the Beasley,  7 Allen firm was counsel for the plaintiff  8 in that case of Mooror versus Republic?  9 A. Yes.  10 Q. Okay. Thank you.  11 Have you ever filed any grievances  12 with the Alabama Bar Association against  13 lawyers who have taken your deposition in  14 civil cases wherein you were put up as an  15 expert witness?  16 A. Yes.  17 Q. Who have you filed grievances against?  18 A. There was one Birmingham --  19 Q. John Dodson?  20 A. Huh?  21 Q. John Dodson?  22 A. Yeah. That may be him.  23 Q. Anyone else?</p>	<p>1 A. Yes.  2 Q. Okay. And as I understand from your CV,  3 your formal education was at the  4 University of Alabama, Bachelor of Science  5 in General Business Administration; is  6 that correct?  7 A. Yeah. Commerce and Business  8 Administration.  9 Q. Understood. Okay.  10 Do you have any degrees from formal  11 education institutions subsequent to your  12 graduation from the University of Alabama  13 in 1971?  14 A. I assume you're excluding from that, like,  15 the Insurance Institute of America, the  16 Associate in Claims designation? I mean,  17 that is a formal --  18 Q. I'm going to get to that.  19 A. All right. But as far as other colleges,  20 no, I don't have any other college  21 degrees.  22 Q. All right, sir. Go ahead and tell me  23 about -- I think you were telling me about</p>

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<p style="text-align: right;">Page 18</p> <p>1 your AIC designation.</p> <p>2 A. Right.</p> <p>3 Q. And what is that, please, sir?</p> <p>4 A. That's an Associate in Claims designation</p> <p>5 that's -- You go through a series of</p> <p>6 courses. I believe there are four courses</p> <p>7 involved on multiple claims areas. You</p> <p>8 take each course individually and then you</p> <p>9 take a written exam. And upon completion</p> <p>10 of the -- I believe it's a four-course</p> <p>11 program, then you receive your Associate</p> <p>12 in Claims designation.</p> <p>13 Q. All right. And did you accomplish that</p> <p>14 while you were employed with Aetna?</p> <p>15 A. That's correct.</p> <p>16 Q. Did that course involve basically</p> <p>17 commercial lines, property and</p> <p>18 casualty-type insurance?</p> <p>19 A. It was all different types of insurance.</p> <p>20 I don't recall the four courses as such.</p> <p>21 But it was -- I mean, you had everything</p> <p>22 from ocean marine. It was, I guess, a</p> <p>23 litany of different insurance courses.</p>	<p style="text-align: right;">Page 20</p> <p>1 representing Ms. Lurie?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Thank you.</p> <p>4 Now, the Certified Fraud Examiners,</p> <p>5 did you have to take any course or</p> <p>6 complete any qualifications to become a</p> <p>7 certified fraud examiner?</p> <p>8 A. You had to complete an application. And</p> <p>9 then based on my training, education and</p> <p>10 experience, I was grandfathered into the</p> <p>11 organization without having to take the</p> <p>12 formal test.</p> <p>13 Q. Yes, sir. That is not really an insurance</p> <p>14 organization, is it?</p> <p>15 A. Well, it's made up of all realms of</p> <p>16 people, from insurance to accountants.</p> <p>17 You've got FBI agents. You've got</p> <p>18 treasury agents. A lot of internal</p> <p>19 auditors. We've got several different</p> <p>20 folks that are insurance company-oriented.</p> <p>21 So it's a big cross-section of folks that</p> <p>22 are involved.</p> <p>23 Q. Would you describe it as an insurance</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. All right, sir. Let me go back to your</p> <p>2 college course, if I may, and ask one</p> <p>3 question. In your courses at the</p> <p>4 University of Alabama, did you take any</p> <p>5 courses in life insurance claims or life</p> <p>6 insurance?</p> <p>7 A. No.</p> <p>8 Q. Did the AIC involve life insurance claims?</p> <p>9 A. I don't recall all that was in the books</p> <p>10 at the time.</p> <p>11 Q. Have you ever taught on the subject of</p> <p>12 insurance at seminars or things of that</p> <p>13 nature?</p> <p>14 A. I discussed -- At one of the Association</p> <p>15 of Certified Fraud Examiners, I have</p> <p>16 talked at one time about insurance and</p> <p>17 insurance claims.</p> <p>18 Q. Okay. That's just one time?</p> <p>19 A. May have been twice.</p> <p>20 Q. Okay. Has Mr. Sanspree shared the podium</p> <p>21 with you in that seminar?</p> <p>22 A. Yes.</p> <p>23 Q. And Mr. Sanspree is the lawyer here today</p>	<p style="text-align: right;">Page 21</p> <p>1 professional organization?</p> <p>2 A. I don't know whether it's totally</p> <p>3 insurance. It's fraud-oriented, which,</p> <p>4 you know, dovetails with insurance. But</p> <p>5 it's not strictly related to the insurance</p> <p>6 line.</p> <p>7 Q. I see. During the course of your work as</p> <p>8 an expert or professional witness, have</p> <p>9 you utilized documents that you've</p> <p>10 received in other cases to assist you in</p> <p>11 forming your opinions in later cases?</p> <p>12 A. Sometimes.</p> <p>13 Q. Yes, sir. In doing so, do you attempt to</p> <p>14 honor and obey court orders?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Did you use some information in a</p> <p>17 Provident case that had been ordered to be</p> <p>18 protected or privileged?</p> <p>19 A. I don't know of any.</p> <p>20 MR. BUTLER: I'm going to do this</p> <p>21 one the same way. But --</p> <p>22 MR. SANSPREE: Am I on that one?</p> <p>23 Do I have a copy of that</p>

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<p>1 one?</p> <p>2 MR. BUTLER: I don't know.</p> <p>3 MR. SANSPREE: Was I the</p> <p>4 attorney?</p> <p>5 MR. BUTLER: You were not the</p> <p>6 attorney.</p> <p>7 MR. SANSPREE: Okay.</p> <p>8 MR. BUTLER: So for my purposes,</p> <p>9 I would like to mark the</p> <p>10 first page of it, which is</p> <p>11 the cover page and some</p> <p>12 other pages. It, again, is</p> <p>13 a travel transcript. And</p> <p>14 I'm interested in -- it's</p> <p>15 all on one page, but it</p> <p>16 covers pages 33, 34, 35 and</p> <p>17 36.</p> <p>18 MR. SANSPREE: That's fine.</p> <p>19 However you want to do it,</p> <p>20 Phil. If you don't mark the</p> <p>21 whole thing, I'll just ask</p> <p>22 you later about it.</p> <p>23 MR. BUTLER: You're certainly</p>	<p>1 Q. Thank you, sir. And that was a previous</p> <p>2 Provident case, was it not?</p> <p>3 A. Yes.</p> <p>4 Q. Handled by Mr. Sanspree?</p> <p>5 MR. SANSPREE: No.</p> <p>6 A. No.</p> <p>7 Q. It wasn't?</p> <p>8 A. No.</p> <p>9 Q. Do you know whether it was handled by the</p> <p>10 Beasley firm?</p> <p>11 A. No. I think that was a California case.</p> <p>12 MR. SANSPREE: It was a San</p> <p>13 Francisco case.</p> <p>14 Q. Did Mr. Sanspree furnish those documents</p> <p>15 to you?</p> <p>16 A. Yes.</p> <p>17 Q. And did you know that they were under a</p> <p>18 Protective Order?</p> <p>19 MR. SANSPREE: They weren't,</p> <p>20 Phil. I just got them from</p> <p>21 the courthouse. I flew out</p> <p>22 there to get them.</p> <p>23 A. That's my understanding. They just came</p>
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<p>1 welcome to it. This will</p> <p>2 be, I think, Exhibit 3 and</p> <p>3 then 3-A, please, ma'am.</p> <p>4 (Defendant's Exhibit 3 and 3-A</p> <p>5 marked for purposes of</p> <p>6 identification)</p> <p>7 Q. Let me show you Defendant's Exhibit 3,</p> <p>8 please, sir, which is a case called</p> <p>9 Pebbles versus Provident Life and Accident</p> <p>10 Insurance Company. The lawyers in that,</p> <p>11 if I can find them, appear to be a</p> <p>12 Mr. Arnston, whom I don't know, a</p> <p>13 Mr. Wilson Jenkins and Mr. Keith Medley.</p> <p>14 That's marked as Defendant's Exhibit 3.</p> <p>15 And then the reference that I have is over</p> <p>16 on page -- I think I said 33 through 36.</p> <p>17 A. Okay.</p> <p>18 Q. I don't want to rush you. But you're</p> <p>19 welcome to read that first.</p> <p>20 A. Okay. This is on the Hangarter documents?</p> <p>21 Q. Yes, sir. You might want to spell that.</p> <p>22 It's a little unusual.</p> <p>23 A. Hangarter.</p>	<p>1 straight out of the courthouse.</p> <p>2 MR. SANSPREE: If they were, then</p> <p>3 the Court didn't protect</p> <p>4 them, because I just flew</p> <p>5 out there and got them.</p> <p>6 Q. Well, my question is, there seems to be a</p> <p>7 discussion on these pages that I've marked</p> <p>8 about the documents being privileged. And</p> <p>9 as to when they were privileged, I think</p> <p>10 you mentioned in your deposition here on</p> <p>11 page -- on Exhibit 3-A that they became</p> <p>12 privileged after your report or something</p> <p>13 of that nature.</p> <p>14 MR. SANSPREE: They were marked</p> <p>15 "Privileged" at the</p> <p>16 courthouse out of San</p> <p>17 Francisco. But I just flew</p> <p>18 out there and got them.</p> <p>19 Nobody tried to protect</p> <p>20 them.</p> <p>21 A. There were several things out of the</p> <p>22 Provident thing that came up about</p> <p>23 Privileged documents.</p>

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<p>1 MR. SANSPREE: I remember. They</p> <p>2 marked everything</p> <p>3 "Privileged," and the Court</p> <p>4 said it was not privileged.</p> <p>5 You just can't mark a</p> <p>6 document "Privileged" and</p> <p>7 say it's privileged.</p> <p>8 A. Also, the New York thing was also marked</p> <p>9 "Privileged and Confidential" and, yet, it</p> <p>10 was later released.</p> <p>11 Q. Okay. But Mr. Sanspree was not involved</p> <p>12 in this Pebbles case, was he?</p> <p>13 A. No.</p> <p>14 Q. Okay. But you did obtain from</p> <p>15 Mr. Sanspree documents from other</p> <p>16 Provident cases to assist you in your</p> <p>17 investigation and forming opinions in the</p> <p>18 Pebbles case; is that right?</p> <p>19 A. Well, I had been working on the cases. It</p> <p>20 was just coincidental that this one came</p> <p>21 along during the time that I had been</p> <p>22 working on these other cases.</p> <p>23 Q. Okay. All right. If I may go a bit to</p>	<p>1 Q. It did not involve life insurance, did it?</p> <p>2 A. No.</p> <p>3 Q. Okay. Were you terminated from that</p> <p>4 position?</p> <p>5 A. Yes.</p> <p>6 Q. When?</p> <p>7 A. '78.</p> <p>8 Q. How long did you work for Alabama Power?</p> <p>9 A. From '71 to '78.</p> <p>10 Q. Okay. And why were you terminated?</p> <p>11 A. Because of the arrest.</p> <p>12 Q. The marijuana?</p> <p>13 A. The marijuana arrest. Yes, sir.</p> <p>14 Q. And you pled guilty to that, did you not?</p> <p>15 A. Yes.</p> <p>16 Q. Have you ever lied under oath in a</p> <p>17 deposition in a civil case, such as this</p> <p>18 one, about the reason you left Alabama</p> <p>19 Power?</p> <p>20 A. No, sir.</p> <p>21 Q. Okay.</p> <p>22 A. I mean, the other case there, where I</p> <p>23 didn't acknowledge that.</p>
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<p>1 your employment background. Upon</p> <p>2 graduating from the University of Alabama,</p> <p>3 was your first job with Alabama Power</p> <p>4 Company?</p> <p>5 A. Yes. I mean, I had had other part-time</p> <p>6 jobs, but that was the first, as such,</p> <p>7 formal job.</p> <p>8 Q. Full-time job?</p> <p>9 A. Full-time job. Yeah.</p> <p>10 Q. Like most of us, you probably had</p> <p>11 summertime jobs and things of that nature</p> <p>12 going through school and that sort of</p> <p>13 thing?</p> <p>14 A. Right.</p> <p>15 Q. All right. And what was your position at</p> <p>16 Alabama Power?</p> <p>17 A. Resident claim agent.</p> <p>18 Q. And did that involve property claims?</p> <p>19 A. All kinds of claims. You had -- At that</p> <p>20 time when I started, you handled some</p> <p>21 workers' comp. You handled property. You</p> <p>22 handled automobile, electrical contracts,</p> <p>23 slip-and-fall, general liability stuff.</p>	<p>1 Q. Okay. Where you didn't -- I'm sorry. I</p> <p>2 didn't follow you.</p> <p>3 A. The first case that you talked about with</p> <p>4 Mr. Miles, where I didn't acknowledge</p> <p>5 being arrested.</p> <p>6 Q. Oh, yes, sir. I know that. I wasn't</p> <p>7 asking that same question.</p> <p>8 A. Oh.</p> <p>9 Q. No, sir. Have you ever lied about the</p> <p>10 marijuana conviction on job applications?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Why did you do that?</p> <p>13 A. Needed a job for my family.</p> <p>14 Q. Okay. It was not that you had forgotten</p> <p>15 about your marijuana conviction, was it?</p> <p>16 A. Correct.</p> <p>17 Q. After you were terminated from Alabama</p> <p>18 Power Company, where did you then go to</p> <p>19 work?</p> <p>20 A. National Producers.</p> <p>21 Q. And what did you do at National Producers?</p> <p>22 A. Majority of the stuff was involving</p> <p>23 inventory in cemeteries down in Columbus</p>

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<p>1 and Phenix City. Then some small amounts 2 of litigation, but not much. 3 Q. Okay. Why did you leave National 4 Producers? 5 A. It didn't look like it was going to be a 6 fruitful job. 7 Q. Did it go bankrupt? 8 A. The company did, I believe. 9 Q. Yes, sir. Where did you next become 10 employed? 11 A. Stonewall Dixie. 12 Q. Is that an insurance company? 13 A. Yes. 14 Q. Did you go immediately from National 15 Producers to Stonewall Dixie? 16 A. I'm not sure what the time lag was. It 17 wasn't real long. 18 Q. All right. At Stonewall Dixie, were you 19 involved in adjusting claims? 20 A. Yes. 21 Q. And were those primarily automobile 22 accident claims and liquor liability 23 claims?</p>	<p>1 Q. Let's do this one the same way, the next 2 number, and then that number as A on page 3 19. 4 (Defendant's Exhibit 4 and 4-A 5 marked for purposes of 6 identification) 7 Q. To refresh your recollection, I think it 8 was a case where the plaintiff's lawyer 9 was Archie Lamb. 10 A. Okay. 11 Q. Does that help you remember? 12 A. You know, I know Archie Lamb, but I 13 don't -- 14 Q. You don't remember who the defense lawyer 15 was? 16 A. No. 17 Q. That's very disappointing. Look at that. 18 A. Was it you? 19 Q. What I've done is marked the title page as 20 4, or asked the court reporter to do that, 21 and 4-A, the page in reference which I 22 think is page 19. I think you were 23 answering my questions in that deposition.</p>
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<p>1 A. Correct. 2 Q. Did not -- 3 A. And subrogation claims. 4 Q. Yeah. 5 A. Right. 6 Q. But the subrogation would, yet and still, 7 generally involve automobile accidents, 8 wouldn't it? 9 A. Correct. 10 Q. Did not involve life insurance, did it? 11 A. No. 12 Q. Were you fired from Stonewall Dixie? 13 A. Yeah. 14 Q. Have you ever lied under oath in 15 depositions in civil cases, wherein you 16 were identified as an expert witness, 17 about whether or not you were fired from 18 Stonewall Dixie? 19 A. I don't recall. 20 Q. Let's see if I can help you. Do you 21 recall giving a deposition in a case 22 called Brooks versus American Fidelity? 23 A. You know, I must have.</p>	<p>1 A. Okay. 2 Q. What was the question? 3 A. "Why did you leave Stonewall Dixie?" 4 Q. You didn't tell me you had been fired, did 5 you? 6 A. No. 7 Q. Why not? 8 A. Well, I indicated I was basically tired of 9 handling those claims, and I was. 10 Q. Yes, sir. Do you think that was a fair 11 and complete answer? 12 A. I think it covered what you asked. And 13 there was a reduction in force, and that's 14 what Jim Sullivan agreed to. 15 Q. Yes, sir. But that agreement that you 16 signed also referenced that it was an 17 involuntary separation that they were 18 firing you for, wasn't it? 19 A. I believe so. It's been -- I don't know 20 how long since I've seen that. 21 Q. Right. 22 A. But, you know, I feel like I answered the 23 question.</p>

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<p>1 Q. Yes, sir.</p> <p>2 A. Because it was true.</p> <p>3 Q. Right. And you think that's a complete</p> <p>4 answer to my question, "Why did you leave</p> <p>5 Stonewall Dixie"? And you said, "I</p> <p>6 basically was tired of handling automobile</p> <p>7 claims and the homeowners' claims and</p> <p>8 wanted something different. And Aetna had</p> <p>9 an opening in the commercial insurance</p> <p>10 division. So I went and applied for that</p> <p>11 and was accepted for that position." You</p> <p>12 don't think it would have been responsive</p> <p>13 to my question to let me know, as to my</p> <p>14 question "Why did you leave Stonewall</p> <p>15 Dixie," that you remember being fired by</p> <p>16 Stonewall Dixie?</p> <p>17 MR. SANSPREE: Object to the</p> <p>18 form.</p> <p>19 A. I mean, I felt like I answered the</p> <p>20 question at the time. To go back and say</p> <p>21 how I would have answered it umpteen years</p> <p>22 later, I can't.</p> <p>23 Q. You're comfortable with that answer as</p>	<p>1 1-B page 25.</p> <p>2 (Defendant's Exhibit 1-B marked</p> <p>3 for purposes of identification)</p> <p>4 Q. Read the bottom of 24 and page 25, which</p> <p>5 I've marked as 1-B, please, sir.</p> <p>6 A. Okay.</p> <p>7 Q. Would you agree with me that you did not</p> <p>8 give an honest answer to the question on</p> <p>9 page 25 with regard to your employment at</p> <p>10 Stonewall Dixie Insurance Company?</p> <p>11 A. I didn't recall any specific things about</p> <p>12 that.</p> <p>13 Q. Oh, you didn't?</p> <p>14 A. At the time, you know --</p> <p>15 Q. Well, let's be a little more clear about</p> <p>16 it, if I might borrow it back. I hate to</p> <p>17 go back and forth, but it's the only copy</p> <p>18 I have with me.</p> <p>19 A. All right.</p> <p>20 Q. The question was -- and I was not the</p> <p>21 defense attorney involved in that. But it</p> <p>22 starts at the bottom of page 24, and the</p> <p>23 question is, "Now, before we get to Aetna,</p>
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<p>1 being a full response to the question?</p> <p>2 A. I feel like I answered your question at</p> <p>3 that point in time.</p> <p>4 Q. Thank you, sir.</p> <p>5 That's not the only time you lied</p> <p>6 about having been fired from Stonewall</p> <p>7 Jackson, is it?</p> <p>8 MR. SANSPREE: Object to the</p> <p>9 form.</p> <p>10 A. Dixie.</p> <p>11 Q. Stonewall Dixie Insurance Company.</p> <p>12 Have you lied in other depositions</p> <p>13 where you were put up as an expert witness</p> <p>14 as to the reasons that you left Stonewall</p> <p>15 Dixie Insurance Company?</p> <p>16 MR. SANSPREE: Object to the</p> <p>17 form.</p> <p>18 A. I don't recall all the answers.</p> <p>19 Q. Let me show you again this same</p> <p>20 deposition, Mooror versus Republic</p> <p>21 American Insurance Company, which we've</p> <p>22 already marked as Defendant's Exhibit 1.</p> <p>23 Let me ask the reporter to mark as Exhibit</p>	<p>1 was there any time at Alabama Power</p> <p>2 Company when you were disciplined or</p> <p>3 criticized about your job"? And your</p> <p>4 answer was "No"; is that correct?</p> <p>5 A. Right.</p> <p>6 Q. And that's not true either, is it?</p> <p>7 A. Well, it wasn't about my job.</p> <p>8 Q. Oh, okay. I withdraw the question.</p> <p>9 The question in this Exhibit 1-B,</p> <p>10 "How about when you were at National</p> <p>11 Producers"? And you said "No." And the</p> <p>12 question, "And Stonewall"? "And when I</p> <p>13 say "criticized," I'm talking about any</p> <p>14 complaints, oral or written, any</p> <p>15 reprimands, oral or written, discipline</p> <p>16 for any reason." And you said, "I don't</p> <p>17 recall any specific things at Stonewall</p> <p>18 Dixie."</p> <p>19 A. Yes.</p> <p>20 Q. You don't consider having been fired from</p> <p>21 Stonewall Dixie a disciplinary action?</p> <p>22 A. Well, I mean, as far as the way I consider</p> <p>23 that, I blew the whistle on some illegal</p>

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<p>1 activities that were taking place in the</p> <p>2 company. And I felt like, you know, there</p> <p>3 was retribution taken against me for</p> <p>4 blowing the whistle.</p> <p>5 Q. What did you blow the whistle on?</p> <p>6 A. Folks stealing money and stealing</p> <p>7 property.</p> <p>8 Q. Who stole money?</p> <p>9 A. Folks out of Florida.</p> <p>10 Q. What are their names?</p> <p>11 A. I don't recall the names. I found out in</p> <p>12 the subro where checks were going out.</p> <p>13 And then the president of Stonewall at the</p> <p>14 time converted a vehicle to his own use</p> <p>15 out of salvage.</p> <p>16 Q. Who was that?</p> <p>17 A. Jim Sullivan.</p> <p>18 Q. Okay. Well, did you report that to the</p> <p>19 stockholders?</p> <p>20 A. I reported it to the Great American.</p> <p>21 Q. To Great American?</p> <p>22 A. Yeah.</p> <p>23 Q. Was Stonewall Dixie a subsidiary of Great</p>	<p>1 You know --</p> <p>2 Q. Do you consider that it was not</p> <p>3 disciplinary?</p> <p>4 A. Well, "disciplinary" is more of, you know,</p> <p>5 trying to change things. I mean, all I</p> <p>6 did was end up getting the ax. So, you</p> <p>7 know, there's a difference between</p> <p>8 discipline and just having the ax fall on</p> <p>9 you.</p> <p>10 Q. On this same page, Exhibit 1-B, you</p> <p>11 answered a moment ago that you had never</p> <p>12 lied about the reason you left Alabama</p> <p>13 Power Company. On this same page of the</p> <p>14 exhibit, on page 20 and 21 of this same</p> <p>15 deposition, you did, in fact, lie about</p> <p>16 the reason why you left Alabama Power,</p> <p>17 didn't you?</p> <p>18 MR. SANSPREE: He's already said</p> <p>19 that, though. Because</p> <p>20 that's the same deposition</p> <p>21 where he denied the</p> <p>22 marijuana arrest.</p> <p>23 MR. BUTLER: That's right. But</p>
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<p>1 American?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And whether or not you think it was</p> <p>4 appropriate or not, you do consider a</p> <p>5 termination from a job a disciplinary</p> <p>6 action, don't you?</p> <p>7 A. I guess it can be. I mean, I considered</p> <p>8 what happened was a whistle-blowing</p> <p>9 retribution. So, I mean, as far as what</p> <p>10 they write down, they can write anything</p> <p>11 they want down to criticize you,</p> <p>12 after-the-fact-type thing. But I blew the</p> <p>13 whistle, and they terminated me and</p> <p>14 terminated a lot of folks within the</p> <p>15 claims department.</p> <p>16 Q. Okay. And you don't agree with their</p> <p>17 action in terminating you, do you?</p> <p>18 A. Correct.</p> <p>19 Q. But, nevertheless, it was disciplinary,</p> <p>20 wasn't it?</p> <p>21 MR. SANSPREE: Object to the</p> <p>22 form.</p> <p>23 A. You think whatever -- You know, that's --</p>	<p>1 he answered a moment ago</p> <p>2 that he had never lied about</p> <p>3 the reason he left Alabama</p> <p>4 Power.</p> <p>5 MR. SANSPREE: He tried to point</p> <p>6 to that --</p> <p>7 MR. BUTLER: The Record will</p> <p>8 speak for itself.</p> <p>9 MR. SANSPREE: He tried to point</p> <p>10 you to the deposition a</p> <p>11 second ago.</p> <p>12 MR. BUTLER: Could be my</p> <p>13 misunderstanding, but the</p> <p>14 Record will speak for</p> <p>15 itself.</p> <p>16 Q. Look at Exhibit 1-B, and the pages that</p> <p>17 are referenced, I think, are 20 and 21.</p> <p>18 A. "Why did you leave Alabama Power Company?</p> <p>19 I had a better opportunity with National</p> <p>20 Producers. Is that the only reason you</p> <p>21 left? Yes."</p> <p>22 Q. And that's not the truth, is it?</p> <p>23 A. Correct.</p>

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<p style="text-align: right;">Page 42</p> <p>1 Q. And you knew it was not the truth at the 2 time you gave the answer? 3 A. Yes. 4 Q. Why did you answer knowingly something 5 that was untrue when you had sworn to give 6 testimony under oath? 7 A. Again, you know, I made a judgment error 8 on not admitting my arrest or being fired. 9 Q. It was just a judgment error? 10 A. I consider it a judgment error. Yes, sir. 11 Q. You consider giving false testimony under 12 oath a judgment error? 13 A. I mean -- 14 Q. Is that right? 15 A. I'd have to think about that. I mean, I 16 made some judgment errors on the status of 17 employment. 18 Q. Do you want to answer it any further, or 19 is that your answer? 20 A. That's my answer. 21 Q. Thank you. 22 This is the deposition where Dee 23 Miles with Beasley, Allen was the lawyer</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. So your position in not telling Aetna the 2 truth on your application was based upon 3 somebody else agreeing not to tell the 4 truth; is that right? 5 A. It was based on an agreement I had with 6 the company on the reason that they would 7 say for my leaving. 8 Q. Thank you. 9 When did you go to work for Aetna? 10 A. July of '83. 11 Q. Okay. And what type of work did you do at 12 Aetna, please, sir? 13 A. Commercial claims. Started out in 14 commercial claims. 15 Q. I think I know what you're talking about. 16 But so that the jury will know, what are 17 we talking about when we speak of 18 commercial claims? 19 A. Commercial claims would be like businesses 20 -- mainly it would be a business 21 environment, workers' comp-type claims. 22 It would -- 23 Q. Casualty claims?</p>
<p style="text-align: right;">Page 43</p> <p>1 for the plaintiff? 2 A. Yes. 3 Q. Thank you. 4 Have you ever lied about the reason 5 you left Stonewall Dixie on employment 6 applications? 7 A. That would have been related to Aetna. 8 Yeah. I had answered that question 9 before. 10 Q. Well, on the Aetna application, you said 11 that you lied about your termination with 12 Alabama Power, on the Aetna application. 13 You also lied about the reason you left 14 Stonewall Dixie Insurance Company to 15 Aetna, didn't you? 16 A. The reason I -- What I stated to Aetna was 17 my conversation with Jim Sullivan, who 18 said that he would back me on a reduction 19 in force; that that would be an 20 explanation he would give to my employer. 21 And Aetna called Sullivan, talked with 22 him, and he explained my abilities, and 23 they hired me.</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Casualty claims, bonds, fidelity bonds, 2 surety bonds, reclamation bonds. 3 Q. Business interruption claims? 4 A. Business interruption. Any type business 5 insurance. 6 Q. It did not involve life insurance, did it? 7 A. No. 8 Q. While at Aetna, were you ever criticized 9 for your claims-adjusting; that Aetna felt 10 like it placed the company at unreasonable 11 and unnecessary risk? 12 A. I had seen one criticism on that. I got 13 praised and got bonuses for doing good. 14 Q. Yes, sir. 15 A. And any criticism I had was a very small 16 percentage of the thousands of claims I 17 had. So to me that's just inherent in the 18 claims. 19 Q. Because, like everyone else, claims 20 adjusters make errors every day, don't 21 they, maybe not every day? 22 A. Maybe not every day. 23 Q. But they make errors?</p>

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<p style="text-align: right;">Page 46</p> <p>1 A. They make errors.</p> <p>2 Q. And you're not exempt from that, are you?</p> <p>3 A. Correct. I mean, people have different</p> <p>4 thoughts about the way things are going to</p> <p>5 be handled. And, I mean, on one of them</p> <p>6 they had, I was criticized. So they</p> <p>7 didn't want me to handle the claim. And</p> <p>8 what did they do? They gave me the claim</p> <p>9 anyway. So --</p> <p>10 Q. Okay. And do you recall an instance where</p> <p>11 you made an in excess of a half million</p> <p>12 dollar offer on behalf of Alabama Power</p> <p>13 that had been sued?</p> <p>14 A. Oh, that -- I don't know whether it was a</p> <p>15 half-million dollar offer. I think it was</p> <p>16 a contractual defense that was owed to</p> <p>17 Alabama Power, as a result of a cable</p> <p>18 company that was attaching to a power</p> <p>19 pole, that agreed to indemnify Alabama</p> <p>20 Power if anything happened on their</p> <p>21 property.</p> <p>22 Q. Yes, sir. Do you recall your error being,</p> <p>23 in that situation, where you did not</p>	<p style="text-align: right;">Page 48</p> <p>1 A. And that's contrary to Chadwick saying I</p> <p>2 was fired, which was an outright lie.</p> <p>3 Q. Chadwick was one of your supervisors,</p> <p>4 wasn't he?</p> <p>5 A. For a short period of time. He wasn't</p> <p>6 there that long.</p> <p>7 Q. Was he your supervisor when you left?</p> <p>8 A. No. No. He was an assistant manager. I</p> <p>9 had a supervisor that was between him.</p> <p>10 Q. So, basically, he supervised your</p> <p>11 supervisor?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Therefore, do you think he would be</p> <p>14 in a position to know why you left Aetna?</p> <p>15 A. You know, he got up there and lied. So,</p> <p>16 you know, I think it was, you know,</p> <p>17 uncalled-for what he did. But he lied and</p> <p>18 I couldn't do anything about it.</p> <p>19 Q. But he did testify under oath that you</p> <p>20 were fired, didn't he?</p> <p>21 A. That's right. And that wasn't the case.</p> <p>22 Q. Okay. You say your job was eliminated?</p> <p>23 A. Yes.</p>
<p style="text-align: right;">Page 47</p> <p>1 review the policy to determine whether</p> <p>2 Alabama Power was even a named insured</p> <p>3 under the policy?</p> <p>4 A. We had contractual coverage.</p> <p>5 Q. Was Alabama Power the named insured under</p> <p>6 the policy that you were making the offer</p> <p>7 on?</p> <p>8 A. I don't recall.</p> <p>9 Q. Was it generally your practice to review</p> <p>10 the policy involved in the course of your</p> <p>11 claims investigation and adjusting?</p> <p>12 A. And contracts. Any contracts that would</p> <p>13 have existed between the insureds and the</p> <p>14 Power Company.</p> <p>15 Q. All right. How long did you work for</p> <p>16 Aetna?</p> <p>17 A. For who?</p> <p>18 Q. For Aetna.</p> <p>19 A. Oh, okay. That was between '83 to</p> <p>20 December of '92.</p> <p>21 Q. Okay. Why did you leave Aetna?</p> <p>22 A. My job was eliminated.</p> <p>23 Q. Okay.</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. Okay. And where were you working for</p> <p>2 Aetna at the time?</p> <p>3 A. Birmingham.</p> <p>4 Q. There were people still in the Birmingham</p> <p>5 Aetna office when you left, weren't there?</p> <p>6 A. It had shrunk significantly.</p> <p>7 Q. Had you been demoted by Aetna before you</p> <p>8 left?</p> <p>9 A. Yes.</p> <p>10 Q. Why?</p> <p>11 A. It was on the way I was handling the</p> <p>12 claims. But they still gave me the same</p> <p>13 claims. They didn't change anything. I</p> <p>14 received the same pay. Got the same</p> <p>15 claims. Continued to handle the same</p> <p>16 stuff for the entire period I was there.</p> <p>17 Q. Have you ever testified that you were</p> <p>18 deselected for new positions from Aetna in</p> <p>19 Birmingham when you left?</p> <p>20 A. I guess I may have. I recall the word</p> <p>21 "deselected."</p> <p>22 Q. It was your word, wasn't it?</p> <p>23 A. Huh?</p>

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<p>1 Q. It was your word, wasn't it?</p> <p>2 A. I believe so.</p> <p>3 Q. Okay. Do you believe you were unjustly</p> <p>4 criticized for your claims-handling</p> <p>5 activities at Aetna?</p> <p>6 A. Yes.</p> <p>7 Q. Has your work for any of these insurance</p> <p>8 companies that you worked for ever</p> <p>9 involved the handling or adjusting of life</p> <p>10 insurance claims?</p> <p>11 A. No.</p> <p>12 Q. Okay. Have you ever worked as a life</p> <p>13 claims adjuster?</p> <p>14 A. No.</p> <p>15 Q. Have you ever been licensed as a life</p> <p>16 insurance agent?</p> <p>17 A. No.</p> <p>18 Q. And have you ever taken any life insurance</p> <p>19 courses?</p> <p>20 A. I can't remember whether AIC had some life</p> <p>21 insurance in that. They may or may not</p> <p>22 have. I don't recall.</p> <p>23 Q. When you left Aetna, you went into the</p>	<p>1 witness groups or associations, such as</p> <p>2 TASA or anybody like that?</p> <p>3 A. I was at one time.</p> <p>4 Q. Now are you?</p> <p>5 A. No.</p> <p>6 Q. Do you have any type of an advertising</p> <p>7 brochure or website that you use to let</p> <p>8 people know what you're holding yourself</p> <p>9 out as an expert in?</p> <p>10 A. No.</p> <p>11 Q. Do you hold yourself out to those that</p> <p>12 might be interested in hiring you as a</p> <p>13 consultant as an expert in the field of</p> <p>14 life insurance claims?</p> <p>15 A. Yes.</p> <p>16 Q. Oh, you do?</p> <p>17 A. Yes.</p> <p>18 Q. On what basis do you contend that you are</p> <p>19 an expert in life insurance claims?</p> <p>20 A. Because the principles of investigation</p> <p>21 and coverage analysis are consistent in</p> <p>22 life insurance claims as they are other</p> <p>23 claims.</p>
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<p>1 consulting business, is that right, the</p> <p>2 same business you're in today?</p> <p>3 A. Yes.</p> <p>4 Q. And what does that business generally</p> <p>5 involve, please, sir?</p> <p>6 A. I do some investigation from time to time</p> <p>7 for -- I've done some for insurance</p> <p>8 companies, for individuals, for attorneys.</p> <p>9 Most of it involved expert witness work.</p> <p>10 But it's generally a combination of expert</p> <p>11 witness work and some investigation work.</p> <p>12 Q. All right, sir. With regard to your</p> <p>13 income, what overall -- it doesn't have to</p> <p>14 be exact. But, in general, what is your</p> <p>15 percentage of your income that comes from</p> <p>16 being a professional witness in insurance</p> <p>17 matters?</p> <p>18 A. Majority of it.</p> <p>19 Q. More than 75 percent?</p> <p>20 A. I mean, it can vary from year-to-year as</p> <p>21 far as what happens there. But probably</p> <p>22 75 percent, at least.</p> <p>23 Q. Okay. Are you a member of any expert</p>	<p>1 Q. How do you know that if you've not taken</p> <p>2 any courses on life insurance claims and</p> <p>3 you've not worked as a life insurance</p> <p>4 claims examiner?</p> <p>5 MR. SANSPREE: Object to the</p> <p>6 form.</p> <p>7 A. That'd be from handling various cases in</p> <p>8 which you review the manuals of the</p> <p>9 various companies, on those that might</p> <p>10 have a manual that, you know, say what's</p> <p>11 involved, and it's consistent -- I believe</p> <p>12 it's just years of reviewing multiple,</p> <p>13 different companies' policies and</p> <p>14 procedures. And, you know, the aspects of</p> <p>15 the investigation and coverage analysis</p> <p>16 are all consistent with what you do on an</p> <p>17 insurance claim.</p> <p>18 Q. So then your expertise in life insurance</p> <p>19 and life insurance claims have come from</p> <p>20 your involvement as a professional witness</p> <p>21 hired in connection with cases involving</p> <p>22 life insurance; is that right?</p> <p>23 A. Yes.</p>

14 (Pages 50 to 53)

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<p>1 Q. Okay. How many cases have you been 2 employed as an expert witness in life 3 insurance? 4 A. I don't know. 5 Q. You have no idea? 6 A. No. 7 Q. Can you think of more than one, not 8 counting this case? 9 A. Not counting this case? I don't recall. 10 I couldn't tell you specifically. I know 11 there have been others, but I just don't 12 recall which cases they are. 13 Q. There was one where Bill Wood at Norman, 14 Wood in Birmingham was the defense lawyer, 15 wasn't he, that again Dee Miles was the 16 plaintiff's lawyer? 17 A. I don't know what case you're talking 18 about. 19 Q. The case of Mobile Scottish Rite Bodies 20 versus New Hampshire Insurance Company. 21 A. That wasn't a life claim. 22 Q. It wasn't? 23 A. No.</p>	<p>1 Exhibit 5-A, which is the bottom of page 2 16 in the deposition, and read -- I've 3 taken the time to highlight the question 4 and the answer there. You can read any 5 portion of it you'd like. But that's what 6 I'm going to be asking you about. 7 A. The top of 16? 8 Q. I think it's the highlighted portion. 9 A. Okay. 10 Q. This question asks you whether you had in 11 the past ever claimed to have experience 12 in reviewing, supervising or actually 13 handling life insurance claims, didn't it? 14 A. Yes. 15 Q. And it says, "Do you ever recollect where 16 you've taken that position?" And your 17 answer was "No"; isn't that right? 18 A. That's what's down there. 19 Q. is that correct? Did you answer 20 truthfully there? 21 A. Which question are you talking about? 22 Q. Right here (indicating). 23 A. Okay. I'm sorry. I was on the wrong</p>
Page 55	Page 57
<p>1 Q. Okay. What kind of claim was it? 2 A. That was employee theft. 3 Q. Employee theft. Okay. 4 A. Yeah. 5 Q. You are correct. I've got the wrong one 6 in my mind. 7 (Brief recess) 8 (Defendant's Exhibit 5 and 5-A 9 marked for purposes of 10 identification) 11 Q. Let me show you what's been marked as 12 Defendant's Exhibit 5, which is a case 13 called American Pioneer Life Insurance 14 Company versus Transportation Techniques, 15 Inc. and John Esposito. Do you remember 16 that case? It involved Dee Miles with the 17 Beasley, Allen firm for the plaintiff -- 18 excuse me. I think it was a dec action -- 19 for the defendant, and William Wood as the 20 plaintiff lawyer filing the dec action. 21 A. I remember the name Esposito, but I don't 22 remember much specifics about the case. 23 Q. All right. Let me ask you to look at</p>	<p>1 page. Okay. I mean, it was coincidental 2 on life insurance claims. I mean, that 3 would -- 4 Q. Yes, sir. But this asks whether you had 5 in the past ever claimed to have had 6 experience in reviewing, supervising or 7 actually handling life insurance claims. 8 A. Well, reviewing. You know, I mean, 9 there's a difference between being an 10 expert as a witness and a consultant, 11 where you're reviewing claims and looking 12 at stuff that may never go to a expert or 13 -- I mean, you can do work as a consultant 14 that you don't necessarily handle as an 15 expert. So there are a couple of 16 different things involved there. So you 17 can be involved with reviewing stuff and 18 still not have handled the thing on a -- 19 you know, from an insurance company 20 perspective. 21 Q. I see. And I understand you're not a 22 lawyer, are you, sir? 23 A. Correct.</p>

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<p style="text-align: right;">Page 58</p> <p>1 Q. Okay. And, so, I don't mean for this</p> <p>2 question to be addressed to you in the</p> <p>3 capacity of a lawyer. It's not a legal</p> <p>4 question. Because Mr. Sanspree will</p> <p>5 object to that, and I don't want him to</p> <p>6 object. But, nevertheless, you told me a</p> <p>7 moment ago that you had gained your</p> <p>8 experience in life insurance as a</p> <p>9 professional witness in reviewing life</p> <p>10 insurance claims manuals, and life</p> <p>11 insurance policies, and things of that</p> <p>12 nature, and working on cases as a</p> <p>13 consultant, professional witness; isn't</p> <p>14 that right?</p> <p>15 A. Yeah. I mean, you would have life</p> <p>16 insurance stuff that would be involved</p> <p>17 with accidental deaths and stuff like</p> <p>18 that.</p> <p>19 Q. Right.</p> <p>20 A. Where you would have inquiries and then</p> <p>21 you'd look at, you know, potential for</p> <p>22 subro or whatever involved in the thing.</p> <p>23 Q. But you wouldn't be acting in the capacity</p>	<p style="text-align: right;">Page 60</p> <p>1 A. I didn't say that. I just said I didn't</p> <p>2 recall what was in the AIC courses that</p> <p>3 may have related to life insurance.</p> <p>4 Q. Is that different from what I said?</p> <p>5 A. Yeah. You're saying that, you know, I</p> <p>6 never looked at any stuff.</p> <p>7 Q. No, I didn't. I said that you don't</p> <p>8 recall having taken any life insurance</p> <p>9 courses. Is that wrong?</p> <p>10 A. Well, I wasn't ruling it out. To me, your</p> <p>11 question is ruling it out.</p> <p>12 MR. BUTLER: Read my question</p> <p>13 back, please, ma'am.</p> <p>14 (Requested portion of Record</p> <p>15 read by the Reporter)</p> <p>16 Q. Do you have recollection of life insurance</p> <p>17 courses?</p> <p>18 A. Again, I don't recall what was in the AIC</p> <p>19 group of courses as to -- you know,</p> <p>20 because that falls under personal</p> <p>21 insurance, which you can have a lot of</p> <p>22 things under personal insurance. So --</p> <p>23 Q. Yes, sir. But, I mean, we may be</p>
<p style="text-align: right;">Page 59</p> <p>1 of life insurance claims-handling or an</p> <p>2 adjuster, would you?</p> <p>3 A. Well, I mean, as far as a consultant, you</p> <p>4 may be looking at it from the claims</p> <p>5 adjuster's perspective, and giving a</p> <p>6 review of claims-handling procedures as it</p> <p>7 relates to a claim. Again, you're going</p> <p>8 to have --</p> <p>9 Q. Well, maybe I better ask it this way. And</p> <p>10 I don't mean to cut you off. But what is</p> <p>11 your view, as a consultant, not in the</p> <p>12 legal --</p> <p>13 (Brief interruption)</p> <p>14 Q. Let me ask this: I need to get your</p> <p>15 understanding what enables you to give</p> <p>16 expert opinion testimony on a subject</p> <p>17 matter. And let me finish my question.</p> <p>18 It's going to be kind of a long question.</p> <p>19 But what I'm interested in, you are here</p> <p>20 expressing opinions in this case on life</p> <p>21 insurance claims-handling. You've told me</p> <p>22 that you do not have recollection of any</p> <p>23 courses on life insurance.</p>	<p style="text-align: right;">Page 61</p> <p>1 quibbling with words here and</p> <p>2 understanding of words. But let me be</p> <p>3 sure that I've got your testimony correct.</p> <p>4 Do you recall having taken any life</p> <p>5 insurance courses?</p> <p>6 A. Again, specifically on life alone --</p> <p>7 Q. I didn't say life alone.</p> <p>8 A. Again, I don't recall what's in the four</p> <p>9 different courses, as to whether some of</p> <p>10 the personal insurance is covered on life.</p> <p>11 Q. Okay.</p> <p>12 A. So --</p> <p>13 Q. All right. All right. And I think you</p> <p>14 told me that you gained your knowledge and</p> <p>15 experience on life insurance claims from</p> <p>16 your work as a professional witness hired</p> <p>17 to consult on life insurance cases; isn't</p> <p>18 that correct?</p> <p>19 A. Yes. To me it's training, education, job</p> <p>20 experience, job knowledge, and having been</p> <p>21 through multiple companies and their</p> <p>22 procedures manuals, for those companies</p> <p>23 that have procedures manuals.</p>

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<p style="text-align: right;">Page 62</p> <p>1 Q. Yes, sir.</p> <p>2 A. And the difference in this case is --</p> <p>3 Q. I didn't ask you that.</p> <p>4 A. Well --</p> <p>5 Q. I will, though.</p> <p>6 A. I mean, but -- I mean, the fact of the</p> <p>7 matter is, the way it's going, the folks</p> <p>8 testify that they have no training</p> <p>9 manuals. So, I mean, I've had the benefit</p> <p>10 of reviewing multiple companies' manuals</p> <p>11 and procedures, for which this company</p> <p>12 says they don't have any manuals or</p> <p>13 procedures, and it's one-on-one training</p> <p>14 and word-of-mouth.</p> <p>15 Q. Yes, sir.</p> <p>16 A. Now, that to me -- I've had much more</p> <p>17 experience than any of these folks have,</p> <p>18 because all of theirs is word-of-mouth</p> <p>19 without any procedures.</p> <p>20 Q. In life insurance claims you've had much</p> <p>21 more experience?</p> <p>22 A. Well, as far as going through and</p> <p>23 understanding industry standards and</p>	<p style="text-align: right;">Page 64</p> <p>1 procedures.</p> <p>2 Q. Yes, sir. You would agree with me that</p> <p>3 different kinds of insurance, be it life</p> <p>4 insurance versus property and casualty,</p> <p>5 for example, would have different</p> <p>6 procedures and different terminology that</p> <p>7 would apply to them, wouldn't you?</p> <p>8 A. Some would be consistent. Some might be a</p> <p>9 little different.</p> <p>10 Q. Tell me, please, sir, how the terminology</p> <p>11 of reservation of rights could possibly</p> <p>12 apply in a life insurance claim.</p> <p>13 A. Because of having a coverage situation.</p> <p>14 And it's my experience that whenever</p> <p>15 you've got a coverage dispute, you should</p> <p>16 notify the insured of the coverage</p> <p>17 dispute. And I know a lot of companies</p> <p>18 take the position, "Well, you don't have</p> <p>19 to do that." But when you've got a</p> <p>20 coverage issue, it's been my thing that</p> <p>21 you advise the insured and let them know.</p> <p>22 Q. What is your understanding of the term in</p> <p>23 the insurance industry, in general, of the</p>
<p style="text-align: right;">Page 63</p> <p>1 manuals and procedures, for which Globe</p> <p>2 says they have no manuals and procedures</p> <p>3 or guidelines to go by. So I'm used to</p> <p>4 reviewing industry standards and reviewing</p> <p>5 the standards of the various companies.</p> <p>6 But in this case they say they don't have</p> <p>7 any. So, you know, for me, I think I'm</p> <p>8 more qualified on handling claims relative</p> <p>9 to this. I mean, even</p> <p>10 Ms. What's-her-name, she states she didn't</p> <p>11 even know what a reservation of rights was</p> <p>12 -- Ms. Whitaker said she didn't know what</p> <p>13 a reservation of rights was after thirty</p> <p>14 years of being in insurance.</p> <p>15 Q. Right.</p> <p>16 A. So it's those type things. You know, it's</p> <p>17 one-on-one. "I don't know anything about</p> <p>18 reservation of rights. And we don't have</p> <p>19 any claims or procedures manual, and</p> <p>20 everything is one-on-one training." So</p> <p>21 that to me -- I've had a lot more training</p> <p>22 and experience than these folks who go</p> <p>23 around operating without manuals or</p>	<p style="text-align: right;">Page 65</p> <p>1 term "reservation of rights"?</p> <p>2 A. That's advising the insured of a coverage</p> <p>3 situation for which there is a issue as to</p> <p>4 whether or not it's coverage. You define</p> <p>5 what's in the policy. You define what's</p> <p>6 in the -- or what the situation is. And</p> <p>7 that there is a question between the</p> <p>8 policy coverages and the situation of the</p> <p>9 individual filing the claim.</p> <p>10 Q. Do you know of any place in the insurance</p> <p>11 industry where the term "reservation of</p> <p>12 rights" is used, except in the liability</p> <p>13 insurance context, where a liability</p> <p>14 insurance carrier is proceeding to defend</p> <p>15 its insured in a liability claim, but</p> <p>16 reserving its rights and defenses to</p> <p>17 challenge coverage in indemnity?</p> <p>18 A. I mean, usually it bonds to me; any time</p> <p>19 you had a question of coverage, you advise</p> <p>20 the insured and you reserve your rights.</p> <p>21 Q. Okay. So we've said liability insurance</p> <p>22 carriers for casualty claims and for</p> <p>23 bonds. Can you tell me anywhere in the</p>

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<p>1 insurance industry than it's used other</p> <p>2 than that?</p> <p>3 MR. SANSPREE: Object to the</p> <p>4 form.</p> <p>5 A. In the liability claims practices, which</p> <p>6 is broad-based, and this is a</p> <p>7 authoritative insurance document -- or</p> <p>8 treatise, and it references the use of the</p> <p>9 reservation of rights where you've got</p> <p>10 questions of coverage. So --</p> <p>11 Q. And it talks about liability coverage?</p> <p>12 A. It's speaking -- Basically, it's speaking</p> <p>13 generic. Whenever you've got -- I mean,</p> <p>14 it is the liability claims. It doesn't</p> <p>15 say --</p> <p>16 Q. That's the entire title of this whole</p> <p>17 treatise is "Liability Insurance Claim</p> <p>18 Practice" -- or "Liability Claim</p> <p>19 Practices"?</p> <p>20 A. Right.</p> <p>21 Q. We're not dealing here with liability</p> <p>22 coverage, are we?</p> <p>23 A. Well, it's a form of liability coverage,</p>	<p>1 and --</p> <p>2 THE WITNESS: We need to make a</p> <p>3 copy of that.</p> <p>4 MR. BUTLER: -- to mark this as</p> <p>5 our next numbered exhibit,</p> <p>6 Chapter 4, that is the</p> <p>7 chapter the witness relies</p> <p>8 on for his testimony, and</p> <p>9 then return it to</p> <p>10 Mr. Sanspree so that</p> <p>11 Mr. Allen will have it back.</p> <p>12 THE WITNESS: I just don't want</p> <p>13 to put a sticker on there</p> <p>14 because it'll tear the cover</p> <p>15 up.</p> <p>16 (Off-the-Record discussion)</p> <p>17 MR. BUTLER: Put a note on there</p> <p>18 for our exhibit number for</p> <p>19 the cover and first -- the</p> <p>20 Roman numeral pages to</p> <p>21 describe the edition, and</p> <p>22 then Chapter 4, please,</p> <p>23 ma'am.</p>
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<p>1 but it's not liability coverage per se.</p> <p>2 But, I mean, there is a liability for the</p> <p>3 coverage that you've written.</p> <p>4 Q. You're saying that life insurance</p> <p>5 coverage --</p> <p>6 A. No.</p> <p>7 Q. -- is the same as liability coverage?</p> <p>8 A. No, I'm not.</p> <p>9 MR. SANSPREE: Object to the</p> <p>10 form.</p> <p>11 Q. Thank you.</p> <p>12 MR. BUTLER: Please, ma'am, mark</p> <p>13 this as our next exhibit,</p> <p>14 and specifically the page</p> <p>15 number that the witness has</p> <p>16 referred us to, being --</p> <p>17 THE WITNESS: Basically it's that</p> <p>18 chapter.</p> <p>19 Q. The whole chapter, Chapter 4?</p> <p>20 A. Yeah. I'll say Chapter 4.</p> <p>21 MR. BUTLER: -- Chapter 4 of this</p> <p>22 book. And I would ask the</p> <p>23 court reporter to mark this</p>	<p>1 (Defendant's Exhibit 6 and 6-A</p> <p>2 marked for purposes of</p> <p>3 identification)</p> <p>4 Q. You told me that your experience with</p> <p>5 regard to life insurance claims was</p> <p>6 limited to your investigation as a</p> <p>7 professional witness of civil cases in</p> <p>8 which you've been hired.</p> <p>9 A. And a consultant.</p> <p>10 Q. And a consultant in those cases, right?</p> <p>11 A. Yes, sir.</p> <p>12 Q. All right. This particular case, American</p> <p>13 Pioneer Life versus Transportation</p> <p>14 Techniques, did involve life insurance,</p> <p>15 didn't it?</p> <p>16 A. I don't recall it specifically involving</p> <p>17 life.</p> <p>18 Q. Well, you identified it as -- Just a</p> <p>19 moment.</p> <p>20 (Defendant's Exhibit 7 marked</p> <p>21 for purposes of identification)</p> <p>22 Q. Let me show you Exhibit 7. That comes</p> <p>23 from your own documents, doesn't it?</p>

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<p>1 A. Yes.</p> <p>2 Q. And there you describe that case as a life</p> <p>3 insurance benefits case, don't you?</p> <p>4 A. Oh, okay. You're talking about -- I've</p> <p>5 just got number 8 as "Denial of Life</p> <p>6 Insurance Benefits." I didn't have the</p> <p>7 name.</p> <p>8 Q. You didn't have the name of the case, but</p> <p>9 you've got the names of the lawyers, don't</p> <p>10 you?</p> <p>11 A. Yes.</p> <p>12 Q. And they're Dee Miles and Bill Wood,</p> <p>13 aren't they?</p> <p>14 A. Yes.</p> <p>15 Q. And certainly there were questions in that</p> <p>16 deposition that you've seen about life</p> <p>17 insurance, weren't there?</p> <p>18 A. Yes.</p> <p>19 Q. Does that refresh your recollection that</p> <p>20 this was a life insurance benefits case?</p> <p>21 A. Yes, sir.</p> <p>22 Q. What others have you served as a</p> <p>23 professional expert or consultant witness</p>	<p>1 don't recall the names.</p> <p>2 Q. Can you tell me anything about them, who</p> <p>3 the lawyers were, what court they were in</p> <p>4 or anything?</p> <p>5 A. No, sir.</p> <p>6 Q. Okay. You have expressed opinions about</p> <p>7 industry standards in this case with</p> <p>8 regard to life insurance claims-handling,</p> <p>9 have you not?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Where do you get your knowledge of</p> <p>12 industry standards with regard to</p> <p>13 adjusting and handling life insurance</p> <p>14 claims, except for serving as a consultant</p> <p>15 or an expert witness in other civil cases?</p> <p>16 A. And reviewing treatises and claims manuals</p> <p>17 and procedures manuals.</p> <p>18 Q. What treatises have you reviewed?</p> <p>19 A. That's one that I had had and read from a</p> <p>20 long time ago that has stuff on life.</p> <p>21 Q. Okay. Can you, to save us time so that I</p> <p>22 won't have to read this treatise, can you</p> <p>23 narrow it any for me by telling me which</p>
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<p>1 in?</p> <p>2 A. I don't recall. I didn't --</p> <p>3 Q. Are there any?</p> <p>4 A. I don't recall. You know, I don't keep</p> <p>5 track of stuff like that.</p> <p>6 Q. Well, you keep a list of them, don't you?</p> <p>7 A. I've got a list, but that doesn't</p> <p>8 necessarily mean what type it is.</p> <p>9 Q. Well, look at whatever you need to know.</p> <p>10 If that's the basis of your expertise, I</p> <p>11 need to know what other life insurance</p> <p>12 benefit cases that you have been involved</p> <p>13 in.</p> <p>14 A. I don't recall.</p> <p>15 Q. You can't tell me any?</p> <p>16 A. Well, I don't recall.</p> <p>17 Q. Okay.</p> <p>18 A. I just don't recall all of them.</p> <p>19 Q. Can you tell me there have been more than</p> <p>20 this one marked Defendant's Exhibit 5?</p> <p>21 A. As a consultant or as an expert?</p> <p>22 Q. Either.</p> <p>23 A. I know I've had numerous ones, but I just</p>	<p>1 section or chapter or page that you would</p> <p>2 rely upon for the subject of knowledge of</p> <p>3 industry standards in handling of life</p> <p>4 insurance claims?</p> <p>5 A. That would be under Chapter 10.</p> <p>6 Q. Okay.</p> <p>7 A. Looks like page 235 to 265.</p> <p>8 Q. Might I borrow it a moment? Show me,</p> <p>9 Mr. Allen, where in Chapter 10 of this</p> <p>10 book, "Personal Insurance" by J. J.</p> <p>11 Lonnie, George Raider, Donald Oakes, 1st</p> <p>12 Edition, 1987, show me in Chapter 10, that</p> <p>13 you've identified, what portion of that</p> <p>14 chapter you rely upon with regard to your</p> <p>15 opinions in this case, with regard to</p> <p>16 claims-handling procedures for life</p> <p>17 insurance claims.</p> <p>18 A. I don't think this discusses</p> <p>19 claims-handling procedures.</p> <p>20 Q. Doesn't discuss it at all, does it?</p> <p>21 A. Correct. And that's what I was telling</p> <p>22 you, that the liability claims practices</p> <p>23 of the claims-adjusting procedures have</p>

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<p>1 basic concepts that are involved in</p> <p>2 investigating and handling claims that</p> <p>3 are, you know, consistent for all types of</p> <p>4 insurance policies.</p> <p>5 Q. And you're referring again to Exhibit 6?</p> <p>6 A. Well, that and, you know, you have, you</p> <p>7 know, claims procedures in the property</p> <p>8 end of the thing.</p> <p>9 Q. And you're showing me now a book called</p> <p>10 "Adjustment of Property Losses."</p> <p>11 A. But it has some unfair claims practices,</p> <p>12 which is what I was looking at on some of</p> <p>13 this on fair claims-handling.</p> <p>14 Q. All right. We'll get to that in a moment.</p> <p>15 Keep that handy for me. But it doesn't</p> <p>16 have anything on life insurance claims,</p> <p>17 does it?</p> <p>18 A. Which one? On property? No.</p> <p>19 Q. What is the name of it?</p> <p>20 A. "Adjustment of Property Losses." It has</p> <p>21 unfair claims practices in there.</p> <p>22 Q. Any other treatises that you've relied</p> <p>23 upon to form your opinions in this case</p>	<p>1 documents from various sources regarding</p> <p>2 how claims are handled. So it's not</p> <p>3 unusual to see case law as an adjuster for</p> <p>4 handling claims.</p> <p>5 Q. All right. You and I had a discussion a</p> <p>6 moment ago about the term, quote,</p> <p>7 "reservation of rights," end quote.</p> <p>8 A. Right.</p> <p>9 Q. You use also the term, quote, "nonwaiver,"</p> <p>10 end quote --</p> <p>11 A. Right.</p> <p>12 Q. -- in your report on this case, don't you?</p> <p>13 A. Yes, sir.</p> <p>14 Q. What does nonwaiver have to do with life</p> <p>15 insurance claims-handling?</p> <p>16 A. Well, nonwaiver is in the same purview as</p> <p>17 a reservation of rights, in that it's just</p> <p>18 a -- Generally, a nonwaiver is a</p> <p>19 standardized form-type thing, although it</p> <p>20 can be manuscripted out, and basically</p> <p>21 says you're investigating the claim, and</p> <p>22 you'll get back with the insured at a</p> <p>23 later time. I mean, that's --</p>
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<p>1 dealing with life insurance claims?</p> <p>2 A. No, sir.</p> <p>3 Q. Thank you.</p> <p>4 A. Well, Bibb Allen's book. I've relied on</p> <p>5 that for the aspects of acceptance of the</p> <p>6 premium.</p> <p>7 Q. On the waiver issue?</p> <p>8 A. Waiver, yeah.</p> <p>9 Q. Okay. And you think his treatise is --</p> <p>10 And you've cited a case in your report.</p> <p>11 Does that comes from Bibb Allen's book?</p> <p>12 A. Yes.</p> <p>13 Q. You don't pretend to have expertise in the</p> <p>14 law governing insurance, do you?</p> <p>15 A. What do you mean?</p> <p>16 Q. Well, you don't hold yourself out as an</p> <p>17 expert in insurance law, do you?</p> <p>18 A. No. I'm not a lawyer. So I'm not</p> <p>19 rendering any legal opinions.</p> <p>20 Q. Thank you.</p> <p>21 A. I mean, I can read the information that</p> <p>22 comes, that's common in the insurance</p> <p>23 industry, to receive case law and other</p>	<p>1 Q. That's your understanding of "nonwaiver"?</p> <p>2 A. Well, "nonwaiver" is you set out that you</p> <p>3 have a claim. You're looking at the</p> <p>4 claim. There may be a question of</p> <p>5 coverage. You know, you're reserving your</p> <p>6 rights to review the coverage aspects, and</p> <p>7 then you'll advise thereafter.</p> <p>8 Q. But what you're doing in that is, you're</p> <p>9 offering to defend the insured in a</p> <p>10 liability context, while you are reserving</p> <p>11 the right to challenge coverage issues,</p> <p>12 aren't you?</p> <p>13 A. You would use the reservation of rights,</p> <p>14 or a nonwaiver, in first-party.</p> <p>15 First-party fire has a lot of reservation</p> <p>16 of rights and nonwaivers involved. So you</p> <p>17 see that -- you see it a lot in, you know,</p> <p>18 the fire-type claim, or any first-party</p> <p>19 claim where there's a question of coverage</p> <p>20 involving the insured.</p> <p>21 Q. Have you ever seen it used in the life</p> <p>22 insurance context?</p> <p>23 A. Not yet.</p>

20 (Pages 74 to 77)

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<p style="text-align: right;">Page 78</p> <p>1 Q. Neither have I.</p> <p>2 A. If the person doesn't even know what a</p> <p>3 reservation of rights is, it's hard for</p> <p>4 them to use one.</p> <p>5 Q. Or if a person has no need of application</p> <p>6 of the term "reservation of rights,"</p> <p>7 there's no need to use one?</p> <p>8 A. I'd disagree with that. Because any time</p> <p>9 you've got a question of coverage, there's</p> <p>10 a need. And as a claims manager, you're</p> <p>11 going to run into situations involving</p> <p>12 coverage. So if you've got twenty-five,</p> <p>13 thirty years experience and you don't even</p> <p>14 know how to reserve rights, or when to</p> <p>15 question coverage, or notice coverage</p> <p>16 questions --</p> <p>17 Q. Can you point me to any -- any</p> <p>18 authoritative source that would suggest</p> <p>19 that the terms, quote, "reservation of</p> <p>20 rights," end quote, or the term, quote,</p> <p>21 "nonwaiver," end quote, has a place and</p> <p>22 application in the context of handling</p> <p>23 life insurance claims?</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Individual was interfering in my father's</p> <p>2 funeral.</p> <p>3 Q. Okay.</p> <p>4 A. And had been a defendant in a defamation</p> <p>5 of character suit.</p> <p>6 Q. And you were a cross-claimant in that,</p> <p>7 weren't you?</p> <p>8 A. Yeah.</p> <p>9 Q. Did you serve as your own lawyer?</p> <p>10 A. Yes.</p> <p>11 Q. And your own expert witness?</p> <p>12 A. Yes.</p> <p>13 Q. Were you ever involved in a lawsuit</p> <p>14 against Allstate, involving your ex-wife,</p> <p>15 concerning an auto accident?</p> <p>16 A. I don't know whether I was involved -- I</p> <p>17 don't know whether suit was filed against</p> <p>18 Allstate.</p> <p>19 Q. Wasn't there a bad faith suit filed?</p> <p>20 A. Against Allstate and my ex-wife?</p> <p>21 Q. Yeah.</p> <p>22 A. I don't recall.</p> <p>23 Q. Okay. So then you wouldn't recall whether</p>
<p style="text-align: right;">Page 79</p> <p>1 A. Not at this time.</p> <p>2 Q. Well, this is the only time I've got to</p> <p>3 ask you.</p> <p>4 A. I know. I haven't seen anything.</p> <p>5 Q. Neither have I.</p> <p>6 A. But, you know, if I go looking, I may find</p> <p>7 something. If I do, I will let you know.</p> <p>8 Q. I'd appreciate it.</p> <p>9 Have you ever been a plaintiff or a</p> <p>10 defendant in a lawsuit?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. What types of cases have you been a</p> <p>13 plaintiff in?</p> <p>14 A. As a landlord, as an individual.</p> <p>15 Q. Were you other than an individual in your</p> <p>16 landlord cases?</p> <p>17 A. No. I was an individual in landlord</p> <p>18 cases. Then sued a few folks. Dismissed</p> <p>19 the last suit I filed against an</p> <p>20 individual from Mobile -- or two</p> <p>21 individuals in Mobile. Didn't dismiss</p> <p>22 that one. Venue was changed.</p> <p>23 Q. What was that case about?</p>	<p style="text-align: right;">Page 81</p> <p>1 you acted as an expert witness in that</p> <p>2 either?</p> <p>3 A. That one was settled with Allstate.</p> <p>4 Q. It was settled?</p> <p>5 A. Yeah.</p> <p>6 Q. Before or after the suit was filed?</p> <p>7 A. I don't even -- I don't recall whether the</p> <p>8 lawsuit was filed. Do you have the style</p> <p>9 on it?</p> <p>10 Q. I do somewhere. Just a moment and I'll</p> <p>11 see if I can help you with it. John and</p> <p>12 Carol Allen versus S. Freeman Green and</p> <p>13 Allstate Insurance Company. Civil action</p> <p>14 number CV-1986-1088. Circuit Court of</p> <p>15 Jefferson County, Alabama.</p> <p>16 A. What year?</p> <p>17 Q. 1986.</p> <p>18 A. Okay. That was when I was still with</p> <p>19 Aetna. Yeah. I didn't recall -- I recall</p> <p>20 the claim against Allstate. That was</p> <p>21 where she was rear-ended.</p> <p>22 Q. You were a plaintiff in that case, weren't</p> <p>23 you?</p>

21 (Pages 78 to 81)

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<p>1 A. Yeah, I guess. I didn't recall that.</p> <p>2 Q. You don't recall suing them for bad faith?</p> <p>3 A. Not from that one. No.</p> <p>4 Q. Okay.</p> <p>5 A. It may have been worded in there.</p> <p>6 (Defendant's Exhibit 8 marked</p> <p>7 for purposes of identification)</p> <p>8 Q. Mr. Allen, let me show you what is marked</p> <p>9 as Defendant's Exhibit 8, which appears to</p> <p>10 be a report from you in this case dated</p> <p>11 October 22nd, 2006. See if that is an</p> <p>12 accurate copy of that, please, sir.</p> <p>13 A. I think they had another list of the court</p> <p>14 trials. It's not a current list.</p> <p>15 Q. Do you have a current list?</p> <p>16 A. Here's a current list.</p> <p>17 Q. Let's mark this as the next number</p> <p>18 exhibit, which will be the current list.</p> <p>19 (Defendant's Exhibit 9 marked</p> <p>20 for purposes of identification)</p> <p>21 Q. And the current list would be Defendant's</p> <p>22 Exhibit 9; is that right, sir?</p> <p>23 A. Yes.</p>	<p>1 something that would jeopardize either</p> <p>2 side of the lawyers of this case --</p> <p>3 A. Right.</p> <p>4 Q. -- on information. But what can you tell</p> <p>5 me -- You say it might be on appeal; you</p> <p>6 don't know?</p> <p>7 A. I don't know exactly what the status of</p> <p>8 the case is. They had some motions, but I</p> <p>9 don't know if --</p> <p>10 Q. Summary judgment motions?</p> <p>11 A. Yeah. But I don't know what's happened,</p> <p>12 as far as whether there's been any appeal</p> <p>13 on the motions or what that is there.</p> <p>14 So --</p> <p>15 Q. Okay. What type of issue was involved in</p> <p>16 that case or is involved in that case?</p> <p>17 A. I think that involved -- Well, I know it</p> <p>18 had issues on the payment of premium and a</p> <p>19 potential lapse of premium payment.</p> <p>20 Q. Did the company, Northwestern Mutual,</p> <p>21 contend that the policy was out of benefit</p> <p>22 due to nonpayment of premium?</p> <p>23 A. Well, it had some other issues as far as</p>
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<p>1 Q. Okay. Going back to a question I asked</p> <p>2 you earlier on the current list. Can you</p> <p>3 point out to me on Exhibit 9 any cases</p> <p>4 that involve life insurance claims, other</p> <p>5 than the one that Mr. Miles and Mr. Bill</p> <p>6 Wood were involved in?</p> <p>7 A. Number 57, I know, is a life insurance</p> <p>8 claim.</p> <p>9 Q. Okay. That's Victoria Johnson versus</p> <p>10 Northwestern Mutual Life?</p> <p>11 A. Right.</p> <p>12 Q. Is that case over?</p> <p>13 A. I don't know whether it's on appeal or</p> <p>14 not.</p> <p>15 Q. Okay. Gusty Yearout was one of the</p> <p>16 plaintiff's attorneys?</p> <p>17 A. Right.</p> <p>18 Q. And Chris King was one of the defense</p> <p>19 attorneys?</p> <p>20 A. Right.</p> <p>21 Q. Has it been tried?</p> <p>22 A. No.</p> <p>23 Q. Well, I don't want you to tell me</p>	<p>1 some accounts that were involved in</p> <p>2 funding the payment of the premium. So</p> <p>3 there was a dispute on that issue as far</p> <p>4 as what was available to fund it, and then</p> <p>5 the value of the policy at the time of the</p> <p>6 alleged lapse, and then whether there were</p> <p>7 any -- you know, what benefits might have</p> <p>8 been due.</p> <p>9 Q. Was this a universal life policy, or</p> <p>10 interest-sensitive policy, or something</p> <p>11 like that?</p> <p>12 A. I think part of it had interest and part</p> <p>13 of it didn't. I think there were a couple</p> <p>14 different types of policy.</p> <p>15 Q. Was the issue involving whether or not the</p> <p>16 cash value, or the fund in the policy, was</p> <p>17 sufficient to carry the premium payment?</p> <p>18 A. There was some issues of cash value. Yes.</p> <p>19 Q. It was not a death claim, right?</p> <p>20 A. Yeah.</p> <p>21 Q. Oh, it was a death claim?</p> <p>22 A. Yeah.</p> <p>23 Q. Okay. And did the insurance company take</p>

22 (Pages 82 to 85)

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<p style="text-align: right;">Page 86</p> <p>1 the position that the policy had lapsed  2 because the fund in the policy was not  3 sufficient to carry the premium?  4 A. That was part of it. Yes.  5 Q. Do you remember anything else?  6 A. I remember there was -- also you had a  7 question on the effective date of the  8 policy, and whether this was a renewal, or  9 whether it was a continuation, or whether  10 it was a new policy. And there were those  11 issues involved, too.  12 Q. Okay. Is that about all you can remember  13 about the issues involved in the case?  14 A. Yeah. I mean, that's the -- I mean,  15 whether the policy had cash value in it,  16 some portions, you know, would have  17 allowed for cash value. Some policies  18 didn't have cash value. So it was a  19 combination of those.  20 Q. I see. Okay. Any others?  21 A. 53, I think, had some elements. It was --  22 I'm thinking that may be on accidental  23 death, involving benefits on accidental</p>	<p style="text-align: right;">Page 88</p> <p>1 A. That's all I recall.  2 Q. Thank you, sir.  3 In your role as an expert witness  4 hired by the party to civil litigation, do  5 you attempt to give fair treatment to all  6 of the language in a policy or a document,  7 or do you consider your role to be that of  8 an advocate for the party who has hired  9 you?  10 A. I don't consider myself an advocate.  11 Q. Do you try to give fair treatment to all  12 of the documents?  13 A. Absolutely.  14 (Defendant's Exhibit 10 marked  15 for purposes of identification)  16 Q. Okay. Let me show you what is marked as  17 Defendant's Exhibit 10, which appears to  18 be a letter dated January the 2nd, I  19 think, 2004.  20 A. Yes.  21 Q. All right. Now, if you would, your pages  22 of your report do not appear to be  23 numbered.</p>
<p style="text-align: right;">Page 87</p> <p>1 death.  2 Q. Okay. Any others? Was the issue in that  3 Cottingham versus CNA case whether or not  4 the death was, in fact, accidental?  5 A. There's more to it than that. This was  6 where the guy had sustained -- I believe  7 this is the one where he had sustained a  8 burn. He was a diabetic. And he got  9 burned by the heater. And then he ended  10 up with having his leg amputated, and then  11 he ended up dying. So it was kind of a  12 chain of causal events associated with it.  13 Q. And the insurance company contended that  14 he died of disease as opposed to an  15 accident? Is that fair to say?  16 A. No, I don't think so.  17 Q. Okay. Do you remember what the issue was,  18 then?  19 A. It was over him dying, and whether there  20 was a causal relationship between the  21 injury and the death. That's all I  22 remember there.  23 Q. Any others?</p>	<p style="text-align: right;">Page 89</p> <p>1 A. They are. Top right.  2 Q. Yes, they are. I'm sorry.  3 A. Top left, I mean.  4 Q. They sure are. Let me find where I'm  5 talking about. Okay. The second page of  6 your report, if you will turn to that,  7 please, sir.  8 A. All right.  9 Q. And in the second paragraph on the second  10 page you refer to this particular letter,  11 do you not?  12 A. Yes.  13 Q. And your letter says, and I quote, "The  14 letter stated that if premium was received  15 by January 17, 2004, that the policy would  16 be reinstated."  17 A. Uh-huh (positive response).  18 Q. Okay. You did not mention the rest of  19 that sentence, did you, from the letter?  20 A. Which part are you talking about?  21 Q. The part that says "provided the insured  22 is still in good health."  23 A. Correct.</p>

23 (Pages 86 to 89)



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<p>1 Q. Why not?</p> <p>2 A. Well, you know, that's just the way I</p> <p>3 worded it.</p> <p>4 Q. I know it. But why didn't you give the</p> <p>5 rest of what the letter said with regard</p> <p>6 to that same sentence that you are</p> <p>7 paraphrasing?</p> <p>8 A. That's just the way I worded the sentence.</p> <p>9 Q. Is that not material to you, the condition</p> <p>10 provided in there, quote, "provided the</p> <p>11 insured is still in good health"?</p> <p>12 A. At the time the payment was mailed, he was</p> <p>13 in good health.</p> <p>14 Q. That's not what I asked. Is that not</p> <p>15 material to you at all, that it says,</p> <p>16 quote, "provided the insured is still in</p> <p>17 good health"?</p> <p>18 A. I wasn't addressing the issue of his</p> <p>19 health. I was addressing the issue if it</p> <p>20 was received by the 17th, it would be</p> <p>21 reinstated.</p> <p>22 Q. Even if he was dead?</p> <p>23 A. And, you know, I went on to mention "A"</p>	<p>1 Q. Where does that experience come from with</p> <p>2 regard to life insurance premium payers?</p> <p>3 A. That's not necessarily involving life</p> <p>4 insurance, but just, in general, of when</p> <p>5 payment is considered as being, you know,</p> <p>6 sent, received. I mean, I remember that</p> <p>7 going back to college. You know, once you</p> <p>8 put it in the mail at that point in time,</p> <p>9 that's when you've sent it on to the other</p> <p>10 person. So --</p> <p>11 Q. And that's when it's deemed received in</p> <p>12 every instance, in your judgment?</p> <p>13 MR. SANSPREE: Object to form.</p> <p>14 A. I mean, as far as the taxes go, I mean,</p> <p>15 that's the example I gave. If you got it</p> <p>16 in there before midnight on the 15th, it's</p> <p>17 deemed as having been transferred over to</p> <p>18 the Feds. So, I mean, that's the best</p> <p>19 example.</p> <p>20 Q. I'm painfully familiar with taxes. But,</p> <p>21 nevertheless, is it your understanding</p> <p>22 that always an item is deemed received</p> <p>23 when it is placed in the mail to the</p>
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<p>1 and "B" under the policy.</p> <p>2 Q. Yes, sir.</p> <p>3 A. So, you know, I reference what the</p> <p>4 certificate said, as far as, you know,</p> <p>5 whether they require any evidence of</p> <p>6 insurability, and the overdue premiums</p> <p>7 were paid.</p> <p>8 Q. Okay. Have you read this policy?</p> <p>9 A. Yes.</p> <p>10 Q. The entire policy?</p> <p>11 A. Well, whatever I had. I don't recall</p> <p>12 whether we have a certified copy of that</p> <p>13 policy or not. Whatever I had policy-wise</p> <p>14 is in the notebook here.</p> <p>15 Q. Right. If you will turn, please, sir, to</p> <p>16 page 6 of your report.</p> <p>17 A. Okay.</p> <p>18 Q. The very top sentence up there where it</p> <p>19 says, "It has been my experience that the</p> <p>20 date anything is mailed is considered as</p> <p>21 the date the item was transferred to the</p> <p>22 addressee."</p> <p>23 A. Yes.</p>	<p>1 addressee?</p> <p>2 A. I haven't read anything to the contrary to</p> <p>3 that position, that once you put it in the</p> <p>4 mail, it's deemed on the received side.</p> <p>5 Q. You would agree that parties can contract</p> <p>6 otherwise, wouldn't you?</p> <p>7 A. What do you mean "contract"?</p> <p>8 Q. Contract differently as to when something</p> <p>9 is deemed received or payment made.</p> <p>10 A. Are you talking about a written contract,</p> <p>11 or an oral contract, or just --</p> <p>12 Q. Either.</p> <p>13 A. You know, you can have variations, I</p> <p>14 guess.</p> <p>15 Q. And if the rule is, as you stated, that an</p> <p>16 item is deemed received by the addressee</p> <p>17 once it's placed in the United States</p> <p>18 mail, you would agree with me that parties</p> <p>19 can contract otherwise, wouldn't you,</p> <p>20 based on your knowledge? I'm not asking</p> <p>21 you for a legal interpretation.</p> <p>22 (Brief interruption)</p> <p>23 A. Would you repeat the question again?</p>

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<p style="text-align: right;">Page 94</p> <p>1 Q. You told me that your understanding as to</p> <p>2 -- regardless of what document or anything</p> <p>3 that's placed in the mail is generally</p> <p>4 deemed received by the addressee once it</p> <p>5 is placed in the United States mail.</p> <p>6 A. Correct.</p> <p>7 Q. My next question was, wouldn't you agree</p> <p>8 that parties could contract otherwise?</p> <p>9 A. I mean, you know, you can contract for a</p> <p>10 lot of different things. So the</p> <p>11 possibility is there.</p> <p>12 Q. Yes, sir. Have you read this policy with</p> <p>13 regard to its definitions as to when</p> <p>14 premiums are payable and how?</p> <p>15 A. I remember there was, like, thirty-one</p> <p>16 days per premium payment due on the other</p> <p>17 side. Which one are you specifically</p> <p>18 referring to?</p> <p>19 Q. I'm going to refer you just a moment. But</p> <p>20 as we sit here, do you remember, from your</p> <p>21 review and investigation of the subject</p> <p>22 Globe Life policy insuring the life of</p> <p>23 David Lurie, what it said as to payments</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Okay. Now, did you read Ms. Lurie's</p> <p>2 deposition?</p> <p>3 A. Yes.</p> <p>4 Q. Did you read the deposition or a summary</p> <p>5 provided to you?</p> <p>6 A. I didn't get a summary. I read her</p> <p>7 deposition.</p> <p>8 Q. Okay. And what was her testimony as to</p> <p>9 when she made a payment on this policy</p> <p>10 that had lapsed?</p> <p>11 A. She indicated that she had written a check</p> <p>12 on January 4th and -- of 2004. Although,</p> <p>13 the check stated January 4th, 2003. So we</p> <p>14 had the year change.</p> <p>15 Q. There would be no issue about that.</p> <p>16 A. Okay. And then she said she had placed</p> <p>17 that in the mail the evening of the 4th,</p> <p>18 and that the mail was picked up the</p> <p>19 morning of the 5th.</p> <p>20 Q. Of 2004?</p> <p>21 A. Of 2004. Yes.</p> <p>22 Q. January the 5th of 2004?</p> <p>23 A. Correct.</p>
<p style="text-align: right;">Page 95</p> <p>1 of premiums, and where they were to be</p> <p>2 made, and such as that?</p> <p>3 MR. SANSPREE: Without looking at</p> <p>4 it?</p> <p>5 MR. BUTLER: Yeah. Without</p> <p>6 looking at it.</p> <p>7 A. I would have to look at it.</p> <p>8 Q. Thank you. I'll give you that</p> <p>9 opportunity.</p> <p>10 MR. BUTLER: Would you mark that</p> <p>11 as the next number?</p> <p>12 (Defendant's Exhibit 11 marked</p> <p>13 for purposes of identification)</p> <p>14 Q. Defendant's Exhibit 11, right up under the</p> <p>15 top bold print "Premiums and</p> <p>16 Reinstatement," it has "Payment". And</p> <p>17 doesn't it say, "Each premium is payable</p> <p>18 in advance at our administrative office"?</p> <p>19 A. Yes.</p> <p>20 Q. And that's in Oklahoma City, Oklahoma,</p> <p>21 isn't it, wherever the administration</p> <p>22 office is?</p> <p>23 A. Wherever that is. Right.</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. And for purposes of your report, had you</p> <p>2 deemed that it was received by Globe Life</p> <p>3 when it was placed in the United States</p> <p>4 mail; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Defendant's Exhibit 11, however,</p> <p>7 under "Premiums and Reinstatement," states</p> <p>8 that "Premium is payable in advance at our</p> <p>9 administrative office," doesn't it?</p> <p>10 A. Yes.</p> <p>11 Q. Clearly it would not have been received by</p> <p>12 the date of death of David Lurie, would</p> <p>13 it?</p> <p>14 MR. SANSPREE: Object to the</p> <p>15 form.</p> <p>16 A. I don't know. You know, if it was mailed</p> <p>17 on the 5th -- You don't know about the</p> <p>18 mail, as to whether it was there the next</p> <p>19 day. I don't know what day. And there's</p> <p>20 nothing I've seen in the evidence that</p> <p>21 says what day it was received by Globe.</p> <p>22 So I don't know.</p> <p>23 Q. Have you read the depositions of the Globe</p>

25 (Pages 94 to 97)



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<p>1 people that were deposed?</p> <p>2 A. Yes.</p> <p>3 Q. Well, let me save some time.</p> <p>4 A. All right.</p> <p>5 Q. Assuming for the purposes of my question</p> <p>6 that there's testimony that it was</p> <p>7 received on or about January the 16th of</p> <p>8 2004.</p> <p>9 A. I know that's the date that it was posted.</p> <p>10 Now, as to whether it was received what</p> <p>11 day, that's unknown. The day it was</p> <p>12 posted to the account would have been the</p> <p>13 16th. So you don't know -- I mean, that's</p> <p>14 a date of posting, which was a day prior</p> <p>15 to the date of the 17th, which was what</p> <p>16 was indicated that it had to, you know, be</p> <p>17 posted by that date.</p> <p>18 Q. Yes, sir. But did you get any information</p> <p>19 from those depositions as to when would</p> <p>20 have been the earliest that it would have</p> <p>21 been received?</p> <p>22 A. I don't recall that.</p> <p>23 Q. Would you agree it would have been after</p>	<p>1 A. Right.</p> <p>2 Q. And the premium was only picked up by the</p> <p>3 postman on January the 5th, right?</p> <p>4 A. Yes.</p> <p>5 Q. If Globe did not receive it until after</p> <p>6 the 6th, then this reinstatement could not</p> <p>7 have been, according to this letter,</p> <p>8 effected, could it?</p> <p>9 A. Well, that's if you're negating that it's</p> <p>10 in the mail and it's in their possession.</p> <p>11 And as far as the physical possession for</p> <p>12 the dateline set there, it was in their</p> <p>13 physical possession and posted before the</p> <p>14 17th.</p> <p>15 Q. Yes, sir. But he was not in good health,</p> <p>16 you know, in between the time they</p> <p>17 received the payment and the 17th, was</p> <p>18 he --</p> <p>19 MR. SANSPREE: Object to the</p> <p>20 form.</p> <p>21 Q. -- if they received it after the 6th?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. You wouldn't expect a life</p>
Page 99	Page 101
<p>1 the date of death of the insured, David</p> <p>2 Lurie?</p> <p>3 A. Well, I don't know.</p> <p>4 Q. Okay. Nevertheless, the policy requires</p> <p>5 it be "paid in advance at our</p> <p>6 administrative office," doesn't it?</p> <p>7 MR. SANSPREE: Object to the</p> <p>8 form.</p> <p>9 A. That's what it says.</p> <p>10 Q. And if it wasn't received at the Globe</p> <p>11 administrative office, then the</p> <p>12 reinstatement offered in Defendant's</p> <p>13 Exhibit 10 says that they must receive</p> <p>14 their payment by January 17th, doesn't it?</p> <p>15 A. Yes.</p> <p>16 Q. And it says that the insured must be still</p> <p>17 in good health, doesn't it?</p> <p>18 A. Yeah.</p> <p>19 Q. In fact, he was dead, wasn't he?</p> <p>20 A. Not on the 2nd.</p> <p>21 Q. Not on the 2nd, but he was dead --</p> <p>22 A. The morning of the 6th.</p> <p>23 Q. -- the morning of the 6th.</p>	<p>1 insurance company to knowingly reinstate a</p> <p>2 life insurance policy that had been lapsed</p> <p>3 and out of benefit, if they knew that the</p> <p>4 insured was dead, would you?</p> <p>5 A. Well, you know, the statement by Attorney</p> <p>6 Mitchell is contrary to that, in that</p> <p>7 Attorney Mitchell indicates that he</p> <p>8 advised them as of the 12th of January</p> <p>9 that Mr. Lurie was dead, and they said,</p> <p>10 okay, just send the premium on in.</p> <p>11 There's no problem as long as it's</p> <p>12 received before the 17th. So the</p> <p>13 affidavit of the attorney is reflective</p> <p>14 that they were with the knowledge of the</p> <p>15 death as of the 12th, and then the account</p> <p>16 was posted on the 16th.</p> <p>17 Q. My question is, from what you know about</p> <p>18 life insurance, would you expect a life</p> <p>19 insurance company to reinstate a life</p> <p>20 insurance policy that was out of benefit</p> <p>21 with knowledge that the insured was</p> <p>22 already dead?</p> <p>23 A. I think it's circumstantial as to the</p>

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<p>1 facts concerning the notice to the 2 insurance company. 3 Q. How is that? 4 A. Well, the attorney had advised them of 5 that. 6 Q. That wasn't my question at all. Listen 7 very carefully. I'm going to ask it the 8 third time. 9 Based on your knowledge of life 10 insurance practices, would you expect a 11 life insurance company to knowingly agree 12 to reinstate a life insurance policy that 13 was out of benefit, knowing that the 14 insured was already dead? 15 A. I don't think you can -- you know, that's 16 second-guessing what an insurance company 17 would do. They might -- 18 Q. Well, that's what you're doing in this 19 case. 20 A. Well, no. Huh-uh (negative response). 21 I'm taking it on the facts of what was 22 shown as testimony by the insured's 23 attorney and the notice to the company.</p>	<p>1 A. I don't think you can ever truly say what 2 any employee may say about -- 3 Q. I didn't ask you what they might have 4 said. I said, does it make sense to you, 5 as a person that's been in the insurance 6 business for a lot of years? 7 A. Makes sense that they would knowingly say 8 that? They had the information in front 9 of them, as far as the computer 10 information, on whether the account is 11 current, whether it's not current. They 12 have the information in front of them in 13 this situation. So, I mean, as far as 14 saying what the employee did or didn't do, 15 there's nothing tendered by Globe to show 16 that the event didn't happen. 17 Q. Is it logical that such a Globe employee 18 would have said that? 19 A. It's possible. 20 Q. Is it logical? 21 A. I don't know whether you could draw a fine 22 line of logic to the possibility that it, 23 you know, took effect. I mean, logically</p>
Page 103	Page 105
<p>1 So -- 2 Q. Can you answer my question? 3 A. No. 4 Q. Thank you. 5 Since you referred to the attorney -- 6 His name is Mitchell? 7 MR. SANSPREE: His name is 8 Matthews. 9 MR. BUTLER: I didn't think it 10 was Mitchell. 11 Q. Have you talked to Mr. Matthews? 12 A. No. 13 Q. Do you know to whom he talked at Globe 14 Life? 15 A. No. 16 Q. Based on your experience in the insurance 17 business or industry, would you think it 18 reasonable to assume that an employee, an 19 unidentified at this point-in-time 20 employee at Globe, would say, go ahead, 21 and, you know, if we get the premium, it 22 doesn't matter whether the insured is dead 23 or not? Does that make sense to you?</p>	<p>1 -- You may say, well, logically this 2 shouldn't happen, but "logically" doesn't 3 necessarily mean it doesn't happen. 4 Q. That's right. You use logic every day, 5 don't you? 6 A. I think most everybody does. 7 Q. I do, too. Is it logical that such an 8 employee would have said that, knowing 9 that the person was already dead and 10 saying, "We'll reinstate anyway if we get 11 the premium in time"? 12 A. I don't know what the employee knew about 13 the premium payment. 14 Q. I don't either. 15 A. And there's nothing been tendered by 16 anybody there that says that they did or 17 didn't talk with the attorney. 18 Q. All right, sir. Would you agree that 19 people who have actually worked in life 20 insurance claims for several years would 21 have more expertise than you with regard 22 to appropriate procedures, with regard to 23 life insurance claims?</p>

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<p style="text-align: right;">Page 106</p> <p>1 A. Well, since Globe doesn't have any 2 policies or procedures, I would say no. 3 Q. Okay. Would you agree that they would 4 have more knowledge of industry standards 5 with regard to life insurance claims? 6 A. No. Not the Globe folks. I mean, if you 7 haven't got any policies and procedures, 8 and everything is word-of-mouth, then that 9 would be impossible, in my opinion, for 10 these folks to have greater knowledge than 11 me when they haven't even read, you know, 12 any policies or procedures. 13 Q. Okay. You did learn from review of the 14 Globe depositions that the claims 15 examiners actually reviewed the policy 16 involved, and the benefits and exclusions 17 in those policies, in adjusting the claim? 18 A. After the fact. 19 Q. After the death? 20 A. No. Because as far as what Ms. Whitaker 21 indicated, she indicated that she got the 22 claim. She looked at it. She approved 23 it. She sent it to Legal. They approved</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. All right, sir. So did you read in the 2 depositions that the Globe adjusters would 3 have the policy language in front of them 4 as to benefits and exclusions? 5 A. They would have a specimen, which I don't 6 know whether it was the actual policy 7 verbiage and addition dates that would 8 have been involved. But there would have 9 been some form of a specimen policy with 10 them. 11 Q. Do you have any knowledge or information 12 that it was not? 13 A. No. 14 Q. So with regard to your thought that it 15 might not have been exact is basically 16 totally guess and surmise, isn't it? 17 A. Well, I don't know, because I haven't seen 18 a certified copy of the policy, and them 19 saying that, "Yes, I reviewed the 20 declaration sheets, and then I've reviewed 21 a certified copy of the policy as 22 certified by ONRA" (phonetic). 23 Q. If it's not totally guess and surmise,</p>
<p style="text-align: right;">Page 107</p> <p>1 it. And then she gave it to the adjuster 2 to see if it was covered after the claim 3 manager had approved the thing, which is 4 totally contrary to what I've seen as an 5 industry standard. 6 Q. You're not listening to my question. 7 Did you not find in the Globe 8 depositions of the Globe employees, the 9 three Globe employees that were deposed, 10 that the Globe procedure was to get a 11 printout of the actual policy involved in 12 the claim? 13 A. Wasn't the actual policy. I think it 14 would have been a specimen. 15 Q. All right. A specimen of the policy 16 involved in the claim? 17 A. But you don't know that the specimen is a 18 certified copy of the policy that existed. 19 Q. And you're not being an advocate here 20 today; is that right? 21 A. I'm just telling you the way -- 22 Q. I understand. Keep on. 23 A. -- the way it was.</p>	<p style="text-align: right;">Page 109</p> <p>1 what is it based on, your comment that it 2 might not have been the same benefit and 3 exclusion language that Mr. Lurie had in 4 his policy? 5 A. The experience of seeing different 6 policies submitted as being the policy in 7 force when they weren't. 8 Q. Okay. But you yourself, in analyzing the 9 actions of Globe Life after the fact, did 10 not read and rely on all of the provisions 11 of Mr. Lurie's policy that was represented 12 to you by Ms. Lurie's counsel as being a 13 copy of his policy, did you? 14 A. I made my observation based on what was 15 submitted to me. 16 Q. Yes, sir. And you did not take note of 17 the language with regard to payment of 18 premiums under "Premiums and 19 Reinstatement" contained on Exhibit 11, 20 did you? 21 A. What do you mean? As far as addressing 22 that in my report, or what? 23 Q. Yes, sir.</p>

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<p style="text-align: right;">Page 110</p> <p>1 A. On which part, are you saying?</p> <p>2 Q. The thing we just got through a moment --</p> <p>3 under "Payment."</p> <p>4 A. You know, I mean, it says what it says,</p> <p>5 and "at the administrative office." I</p> <p>6 mean, I guess it was addressed to the</p> <p>7 administrative office. I don't know what</p> <p>8 the address was on the envelope, but I</p> <p>9 assume it was to the administrative</p> <p>10 office.</p> <p>11 Q. Okay. But this says "Premium is payable</p> <p>12 in advance at our administrative office."</p> <p>13 And you interpret that to mean if it was</p> <p>14 placed in the mail and mailed to the</p> <p>15 administrative office, it's the date of</p> <p>16 mailing? Is that your interpretation?</p> <p>17 A. I think it's subject to ambiguity.</p> <p>18 Q. Okay. You refer often in your report to</p> <p>19 industry standards, and breach of industry</p> <p>20 standards, with regard to the adjustment</p> <p>21 of life insurance claims. Where are those</p> <p>22 industry standards published in a manual</p> <p>23 or a guideline?</p>	<p style="text-align: right;">Page 112</p> <p>1 books and see what's there. I'm going on</p> <p>2 my training, education and experience as</p> <p>3 far as what is within an industry standard</p> <p>4 and what's outside of an industry</p> <p>5 standard. Industry standards say you're</p> <p>6 supposed to have some sort of procedures</p> <p>7 and manual, and Globe doesn't have any.</p> <p>8 So how do they know what they're supposed</p> <p>9 to do, other than word-of-mouth?</p> <p>10 Q. Well --</p> <p>11 A. I mean, they don't have any standards</p> <p>12 within the company itself.</p> <p>13 Q. Yes, sir. Yes, sir. But you relied on</p> <p>14 your training and experience, didn't you?</p> <p>15 A. And review of -- You know, my years of</p> <p>16 experience and looking at things from a</p> <p>17 consultant and an expert witness, same</p> <p>18 point.</p> <p>19 Q. Yes, sir. But the Globe people, that you</p> <p>20 read the depositions of, relied and</p> <p>21 utilized their training and experience in</p> <p>22 the very field of life claims-handling,</p> <p>23 didn't they?</p>
<p style="text-align: right;">Page 111</p> <p>1 A. Deviation from industry standards?</p> <p>2 Q. No, sir. The industry standards</p> <p>3 themselves.</p> <p>4 A. Well, I mean, you've got a combination of</p> <p>5 all the different industry treatises which</p> <p>6 address claims of various forms. So as</p> <p>7 far as one particular book that I can say</p> <p>8 encompasses it all, I don't think there's</p> <p>9 one book in itself that encompasses it.</p> <p>10 It's a variety of industry treatises that</p> <p>11 govern how claims are handled.</p> <p>12 Q. Well, I'm speaking of life insurance</p> <p>13 claims here in this case. Because you do</p> <p>14 understand that's what is involved in this</p> <p>15 case?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Can you tell me where those</p> <p>18 industry standards that you claim are</p> <p>19 breached are set forth in any manual,</p> <p>20 treatise or guideline?</p> <p>21 A. I mean, we'd have to take that one-by-one</p> <p>22 on what's in the letter, and then I'd have</p> <p>23 to go back and look through the various</p>	<p style="text-align: right;">Page 113</p> <p>1 A. Their training and experience is strictly</p> <p>2 a one-on-one, word-of-mouth with no</p> <p>3 procedures in mind, or no set procedures</p> <p>4 for the company.</p> <p>5 Q. And yours is superior because your</p> <p>6 training and experience is working on</p> <p>7 plaintiffs' cases as a professional</p> <p>8 witness to give testimony in civil</p> <p>9 lawsuits; is that right?</p> <p>10 MR. SANSPREE: Object to the</p> <p>11 form.</p> <p>12 A. I do plaintiff and defense work. So</p> <p>13 it's --</p> <p>14 Q. I'm sorry. Plaintiff and defense work.</p> <p>15 Your training and experience would be</p> <p>16 superior, in your judgment, to their</p> <p>17 training and experience with regard to</p> <p>18 life claims-adjusting; is that right?</p> <p>19 A. I would say with these folks, from what I</p> <p>20 read, with them not having any training,</p> <p>21 or education, or any certification, and</p> <p>22 then having nothing to go on within the</p> <p>23 company.</p>

29 (Pages 110 to 113)



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<p style="text-align: right;">Page 114</p> <p>1 Q. Well, they have the policy, don't they, 2 that sets forth the contract?</p> <p>3 A. Yeah. But they don't have any policies 4 and procedures manual. I know you've seen 5 them, and they go down and explain how 6 you're supposed to do things when you get 7 a coverage issue, how it's supposed to be 8 addressed, how it's supposed to be 9 handled. But here they say they've got 10 nothing but word-of-mouth to guide any of 11 these folks. And then you've got a person 12 that says they've been there thirty years 13 and they don't know what a reservation of 14 rights is. I know my experience is better 15 than theirs if they don't even have a 16 concept of that.</p> <p>17 Q. I might agree with you if you can point to 18 me any place that any company on life 19 insurance claims utilizes the terminology, 20 quote, "reservation of rights," end quote, 21 or "nonwaiver." But you don't have any 22 such information, do you?</p> <p>23 A. Not today.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. You say that what they should have done 2 initially, the first claims person that 3 touched the claim -- Do you know when the 4 proof of loss came in?</p> <p>5 A. I don't recall the date on that.</p> <p>6 Q. Wasn't it sometime in March? I don't 7 either.</p> <p>8 A. It was after January.</p> <p>9 Q. I would hope it was after January. But 10 assuming it was sometime in March of 2004, 11 once you've got proof of loss of the 12 claim, is it your view that the first 13 claims person that touched that should 14 have determined whether the policy was in 15 force or not at the date of death?</p> <p>16 A. Well, Ms. Whitaker never determined 17 whether --</p> <p>18 Q. Can you answer my question?</p> <p>19 A. Ms. Whitaker never determined whether the 20 policy was in force. She never looked at 21 the policy. She didn't determine anything 22 on the premium payment, and she okayed the 23 payment.</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. And you're going to research that and 2 report that back to Mr. Sansprey if you 3 can find it?</p> <p>4 A. Only if I see anything on it.</p> <p>5 Q. I would appreciate it.</p> <p>6 But you say it would be a breach of 7 industry standard for the Globe Life 8 claims personnel to use their training and 9 experience wherein they adjust claims 10 every day on these same type life 11 insurance policies and they actually 12 utilize the contract of insurance itself 13 to go by with regard to benefits and 14 exclusions?</p> <p>15 A. Well, I mean, this one, they accepted the 16 -- I mean, initially Globe says, "Yeah, 17 it's paid. It's payable." And then the 18 law firm looked at it and they say it's 19 payable. And then you come back to the 20 examiner and they say, "Oh, no, we're not 21 going to pay the thing." I mean, that's 22 just a total backwards approach from what 23 industry standards are. And so --</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. Do you think that's an answer to my 2 question?</p> <p>3 A. That's what happened.</p> <p>4 Q. That's not an answer to my question, 5 though. I'm entitled to get answers to 6 the questions I ask, Mr. Allen. And I've 7 got all day.</p> <p>8 A. All right.</p> <p>9 MR. BUTLER: Read back my 10 question, please. 11 (Requested portion of Record 12 read by the Reporter)</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 And it appears in this instance that 16 was not done; is that right?</p> <p>17 A. To my knowledge. Well, you know, I don't 18 know what -- I don't know exactly what was 19 done about that.</p> <p>20 Q. Let me ask you this, Mr. Allen: Do you 21 know any legitimate, logical reason that 22 Globe would have gone through the time and 23 expense to investigate the merits of this</p>

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<p style="text-align: right;">Page 118</p> <p>1 claim, if it knew from the outset that the</p> <p>2 insured had died while the policy was out</p> <p>3 of benefit?</p> <p>4 MR. SANSPREE: Object to the</p> <p>5 form.</p> <p>6 A. Repeat it one more time.</p> <p>7 Q. Yes, sir. Do you know whether there is</p> <p>8 any legitimate, logical, reasonable basis</p> <p>9 that Globe would have gone to the time and</p> <p>10 expense of going into investigation of the</p> <p>11 merits of whether this claim is payable,</p> <p>12 if they already knew that the insured had</p> <p>13 died while this policy was out of benefit?</p> <p>14 MR. SANSPREE: Same objection.</p> <p>15 A. You'd still have some elements to</p> <p>16 investigate on the timing, and when the</p> <p>17 payments were submitted. There's a lot of</p> <p>18 stuff you can look at from an</p> <p>19 investigative standpoint. I mean, the way</p> <p>20 the claim was sent in, it was sent in and</p> <p>21 approved, and then the investigation was</p> <p>22 started after the claim was approved.</p> <p>23 Q. Well, the investigation as to whether the</p>	<p style="text-align: right;">Page 120</p> <p>1 death, that would be the end of it, in</p> <p>2 your view, wouldn't it, or not?</p> <p>3 A. Not necessarily the end of it. I mean,</p> <p>4 you've still got an obligation to</p> <p>5 investigate the claim, investigate all</p> <p>6 avenues, and make an informed decision and</p> <p>7 subject it to a cognitive review where you</p> <p>8 know all the factors involved before you</p> <p>9 make a decision.</p> <p>10 Q. Yes, sir. And would that include</p> <p>11 investigating what I call the merits? It</p> <p>12 may be a poor phrase. But when I say</p> <p>13 "merits," I'm talking about if there was</p> <p>14 no issue of whether the policy was in</p> <p>15 benefit, whether this was a payable claim</p> <p>16 or not?</p> <p>17 A. Well, I mean, still you've got a question</p> <p>18 as to, you know, whether it was in benefit</p> <p>19 or not. I mean, you've got the</p> <p>20 reinstatement thing. So it's kind of</p> <p>21 convoluted as to the way the thing works.</p> <p>22 Q. Yes, sir. You would agree with me, would</p> <p>23 you not, that this policy had clearly</p>
<p style="text-align: right;">Page 119</p> <p>1 policy was in force was investigated,</p> <p>2 right, after the merits issue had been</p> <p>3 investigated, the merits of the payability</p> <p>4 of the claim as an accidental death?</p> <p>5 A. Yes.</p> <p>6 Q. Thank you.</p> <p>7 And you say that was an error in the</p> <p>8 order in which they went through this, in</p> <p>9 your judgment?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And that ties back into your view</p> <p>12 that the first claims person should have</p> <p>13 determined whether the policy was in</p> <p>14 benefit at the date of the insured's</p> <p>15 death; isn't that right?</p> <p>16 A. That would be one thing you would look at.</p> <p>17 Q. What else would you look at?</p> <p>18 A. Well, you'd look at the cause of death,</p> <p>19 and whether it might have been suicidal,</p> <p>20 or whether it might have been accidental,</p> <p>21 suicidal, homicide.</p> <p>22 Q. If the claims adjuster determined that the</p> <p>23 policy was not in benefit on the date of</p>	<p style="text-align: right;">Page 121</p> <p>1 lapsed and was beyond the grace period on</p> <p>2 January the 4th of 2004?</p> <p>3 A. Now, they had the reinstatement portion --</p> <p>4 On the grace period, it says, "A grace</p> <p>5 period of thirty-one days will be allowed</p> <p>6 each insured for the payment of each</p> <p>7 premium after the 1st, during which period</p> <p>8 his or her insurance shall continue in</p> <p>9 force."</p> <p>10 Q. Okay.</p> <p>11 A. Where you're having each insured and each</p> <p>12 premium. So it's stating a thirty-one-day</p> <p>13 grace period on each premium, which would</p> <p>14 be if you've got a November premium and</p> <p>15 then you've got a December premium, it's</p> <p>16 saying a thirty-one-day grace period on</p> <p>17 each of the premiums.</p> <p>18 Q. Yes, sir. But the policy had lapsed as</p> <p>19 of, I think, December the 28th or toward</p> <p>20 the end -- I can't remember the exact date</p> <p>21 -- but toward the -- The policy had lapsed</p> <p>22 and was out of benefit before the</p> <p>23 beginning of 2004, wasn't it?</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. There's no issue about that, is there?</p> <p>3 A. No issue on the lapse. They did reinstate</p> <p>4 it, though.</p> <p>5 MR. BUTLER: Move to strike as</p> <p>6 nonresponsive.</p> <p>7 Q. All right, sir. So whether or not this</p> <p>8 policy was in benefit on the date of death</p> <p>9 turns on the issue of whether or not the</p> <p>10 premium mailed on January the 5th is</p> <p>11 deemed received by Globe on that date; is</p> <p>12 that right?</p> <p>13 A. That's part of it.</p> <p>14 Q. Anything else?</p> <p>15 A. Well, the fact that you've got the</p> <p>16 attorney that calls and advises them, as</p> <p>17 he indicated on the 12th, that this had</p> <p>18 happened, and then he receives word that</p> <p>19 as long as it's received before the 17th.</p> <p>20 Q. Okay. In your reading, and investigation,</p> <p>21 and review and analysis of the policy in</p> <p>22 question in this case, did you determine</p> <p>23 whether or not the insurance contract</p>	<p>1 should have initially determined whether</p> <p>2 the contract or policy of life insurance</p> <p>3 was still in force at the day of this</p> <p>4 death? Is that fair?</p> <p>5 A. That would be one of the things.</p> <p>6 Q. All right. But do I also understand your</p> <p>7 testimony, that, nevertheless, whatever --</p> <p>8 you know, even if the adjuster determined</p> <p>9 that the contract was not in benefit at</p> <p>10 the date of his death, the adjuster should</p> <p>11 have gone forward to determine whether the</p> <p>12 claim was otherwise payable?</p> <p>13 A. Well, I mean, you need to investigate the</p> <p>14 whole thing. I mean, as far as the</p> <p>15 premium payment, whether it was, you know,</p> <p>16 sent and received in accordance with the</p> <p>17 thing, the question on the letter -- or</p> <p>18 the premium payment mailed by Ms. Lurie, I</p> <p>19 mean, if it had the address of Globe Life</p> <p>20 on it at the prescribed place, then that</p> <p>21 would be in accordance with the policy</p> <p>22 provisions on the premium payment, by</p> <p>23 having it properly addressed to them when</p>
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<p>1 could be modified and changed by an oral</p> <p>2 statement?</p> <p>3 A. As a general rule, they're not supposed to</p> <p>4 be. That doesn't mean that it doesn't</p> <p>5 happen or you don't get those statements</p> <p>6 from employees.</p> <p>7 Q. Well, let's forget about general rules and</p> <p>8 things of a general nature. Let's talk</p> <p>9 about the language in this policy. Did</p> <p>10 you read in this policy where it can't be?</p> <p>11 A. I don't recall the exact section. That's</p> <p>12 a standard condition in most policies.</p> <p>13 Q. Yes, sir. You wouldn't be surprised to</p> <p>14 find it in here?</p> <p>15 A. Correct.</p> <p>16 Q. Okay.</p> <p>17 (Brief recess)</p> <p>18 Q. Let me see if I've got this right,</p> <p>19 Mr. Allen. Do I understand that it is</p> <p>20 your opinion, that with regard to this</p> <p>21 particular claim on Mr. Lurie's death,</p> <p>22 that initially the claims person that</p> <p>23 handled the review of the proof of loss</p>	<p>1 it's put in the mail. So you've got all</p> <p>2 these little things you need to look at in</p> <p>3 order to ascertain, you know, what</p> <p>4 happened, what was due, what wasn't due,</p> <p>5 if they had any problem with the coverage,</p> <p>6 any problem with the payment, any problem</p> <p>7 with the reinstatement. Was it in</p> <p>8 accordance with normal procedures?</p> <p>9 Q. Do you think they should have gone ahead</p> <p>10 and determined whether the claim -- for</p> <p>11 example, this is an accidental death</p> <p>12 policy -- whether the claim was payable as</p> <p>13 an accidental death, but for the issues</p> <p>14 with regard to premium payment?</p> <p>15 A. I think they should have investigated the</p> <p>16 whole thing before you go and you approve</p> <p>17 payment, and then after you approve</p> <p>18 payment by management and legal, and both</p> <p>19 of those approve of payment, and then you</p> <p>20 give it to an adjuster and say, all right,</p> <p>21 now go investigate it, and see if there's</p> <p>22 any reason to pay it. But that's after</p> <p>23 you receive the approval, which is just</p>

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<p>1 totally contrary to the way I've seen  2 business done, which is where the adjuster  3 determines all the facts, submits that to  4 management, determines if there's any  5 question there, and then the management,  6 if they've got any further question, then  7 they may seek a legal opinion after that.  8 Here they passed it through both  9 management and legal, and then came back  10 and relied on the adjuster to come up with  11 a basis for denial.  12 Q. But with regard to the procedures, you  13 think that they handled it somewhat  14 backwards based on procedures they should  15 have followed?  16 A. Well, they don't have any procedures.  17 Q. Well --  18 A. I mean, they say --  19 Q. They didn't say they --  20 A. She said they didn't have a policies and  21 procedures manual, and it was  22 word-of-mouth. But that again is --  23 Q. That's right. She said it was also based</p>	<p>1 Q. Okay. And the only difference is, they  2 didn't make the determinations in the  3 order that you say they should have; isn't  4 that correct?  5 A. Yes.  6 Q. Okay. Because they did do a -- Would you  7 agree with me that they did a thorough  8 investigation as to what we've been  9 calling the merits of the claim, as to  10 whether it was payable, but for the issues  11 concerning whether the policy was in  12 force? Did you look at that?  13 A. Repeat the question again.  14 Q. In other words -- Let's forget about the  15 issue, for right now, for the purpose of  16 my question, about whether the policy was  17 in force or not. I understand your  18 opinion on that.  19 A. Okay.  20 Q. Did you read what was done by the claims  21 personnel to investigate the merits of the  22 claim, in other words, whether he died of  23 accidental death, and things of that</p>
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<p>1 on experience, too, didn't she?  2 A. The experience of not reading any manuals  3 or knowing what policy --  4 Q. Is that what she said?  5 A. No, she didn't say that. She says they  6 have no manuals, and everything is done  7 one-on-one.  8 Q. Yes, sir.  9 A. And that's not the way you find the  10 business is done within the insurance  11 companies.  12 Q. And she said they train their adjusters  13 based on experience, and based on the  14 policies and benefits and exclusions,  15 don't they?  16 A. That's one-on-one person.  17 Q. Yes, sir. Okay. But, nevertheless, you  18 agree that they should have investigated  19 the -- regardless of the premium payment,  20 and whether the policy was in force or  21 not, they should have investigated the  22 entire claim?  23 A. Yes.</p>	<p>1 nature, and that sort of thing? Did you  2 read that?  3 A. Yeah. They did make a determination based  4 on the -- I think they ordered the  5 coroner's report or police report.  6 Q. Yes, sir. And did you find that that part  7 of the investigation appeared to have been  8 done reasonably?  9 A. Yes.  10 Q. Okay. And the determination on that  11 portion was that it was a payable claim,  12 wasn't it?  13 A. Correct.  14 Q. And that was the opinion of Ms. Whitaker,  15 who's in charge of the Claims Department,  16 and it was the opinion of Brian Mitchell  17 in the Legal Department, wasn't it?  18 A. Okay. Yeah. Because we've got Matthews  19 and Mitchell.  20 Q. Right. So if there was any negligence  21 involved here, it was in regard to the  22 first person in the Claims Department at  23 Globe that first looked at the claim,</p>

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<p>1 because she apparently did not determine 2 whether the policy was in force or not at 3 the date of death; is that right? 4 A. That would have been the claim manager and 5 the Legal Department. Because she made 6 the -- Ms. Whitaker made the decision. 7 Q. I don't think you're following my 8 question. I may not have stated it very 9 clearly. But I'm talking about the first 10 person that -- 11 A. Whoever took the phone call in? 12 Q. No. I'm talking about when they received 13 the proof of loss. 14 A. Okay. 15 Q. Do you know who that person was that first 16 handled the claim upon receipt of the 17 proof of loss? 18 A. I don't recall the name. 19 Q. Okay. Fair enough. 20 Whoever that person was, in your 21 judgment, should have made the 22 investigation as to whether the policy was 23 in force, and investigated the issues with</p>	<p>1 overview. 2 Q. Okay. But that information should have 3 been determined initially, shouldn't it 4 have, about whether the policy was in 5 force or not on the premium issues? 6 A. That should have been done before any 7 decision was made. 8 Q. What possible benefit, in your judgment, 9 would there have been to Globe to spend 10 the time and expense to investigate the 11 merits if the policy was not in benefit at 12 the date of death? 13 A. They wouldn't be in this lawsuit today if 14 they had investigated the thing properly. 15 Q. You're not listening to my question. 16 Please take your time and listen to it. 17 We'll both get out of here a lot quicker. 18 My question is this: What possible 19 benefit would there have been to Globe to 20 spend the time and expense to investigate 21 the merits of the claim if Globe already 22 knew that the policy was not in benefit on 23 the date of Mr. Lurie's death?</p>
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<p>1 regard to premiums; is that right? 2 A. Well, it should have been an 3 all-encompassing investigation. And as to 4 whether they have theirs segmented out for 5 each person doing a given task, and then 6 somebody pulls everything together, you 7 know, I don't know specifically as to how 8 they handled that. 9 Q. But it's your opinion that that should 10 have been the first order of business? 11 A. Yeah. That's one of the first things you 12 look at, is your coverage. 13 Q. So, then, if there is negligence involved 14 here in the processing of the Lurie claim, 15 it was with regard to that person not 16 doing that initially in this case; is that 17 right? 18 A. Well, it moves on down the line. Because 19 one person is not doing it and then other 20 folks don't ask any questions about that, 21 and then they accept some basic things. 22 So it's moving on down where, you know, 23 several people are not doing a good</p>	<p>1 A. You would still need to investigate it to 2 make sure that the entire investigative 3 process for the claim was completed and 4 that you've obtained all the relevant data 5 to make the decision -- make the informed 6 decision, and then you can make a 7 cognitive review of what information you 8 have and determine whether you have the 9 information you need to make the decision. 10 Q. Do you agree with me that the options 11 facing Globe on the Lurie claim were 12 either to refund the premium, or to pay 13 the claim? 14 A. I think they would have denied it, too, 15 and not refunded the premium or not paid 16 the claim. 17 Q. Well, it wouldn't be appropriate to deny 18 the claim and not to refund this premium, 19 would it? 20 A. Well, again, you know, what should be and 21 what is are two different things. And I'm 22 not -- 23 Q. I'm not talking about "should be." Do you</p>

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<p>1 actually believe, from an objective 2 standpoint, that Globe would have held the 3 \$33.00 in premium after denying the claim? 4 A. Shouldn't. But, I mean, you know, they 5 refunded it. But, I mean, you can't make 6 a general rule and say, okay, well, this 7 doesn't make sense. Well, there are a lot 8 of things that are done that don't make 9 sense. 10 Q. That's right. So if Globe viewed their 11 options on this claim as either refunding 12 the premium or paying the claim, if they 13 determine that the claim should be denied 14 and should not be paid, if they view that 15 their option ultimately was refund of the 16 premium, it wouldn't be of much benefit 17 for Globe to hold that premium of \$33.00 18 for three months, would it? 19 A. Benefit to Globe strictly on withholding 20 the premium or the premium reimbursement? 21 Q. Yes. 22 A. No. 23 Q. Okay. And if, in fact, this claim was not</p>	<p>1 that she would have had would have been 2 the loss of use of that \$33.00 for the 3 three months involved in the claims 4 determination; isn't that right? 5 A. That's if you're saying everything else is 6 right, and that it's just the premium. 7 Q. Yes, sir. 8 A. That would be correct on the premium 9 alone. I don't agree, as you said it, 10 with the end result. 11 Q. Okay. I noticed in your report -- or, at 12 least, I didn't find it, any reference to 13 your expressing an opinion of bad faith. 14 Have I missed something in your report? 15 A. I believe bad faith is a jury 16 determination, and it's not my judgment 17 call as to what constitutes bad faith. 18 Mine is an evaluation of the deviation 19 from industry standards. So I don't 20 comment on what -- I don't make the 21 judgment call on the bad faith. 22 Q. Did you find any evidence of intentional 23 or malicious conduct on Globe's part of</p>
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<p>1 payable under the policy and the governing 2 law -- and I'm not asking you to agree 3 with me on that, but to assume that that's 4 a fact -- the only damages that Ms. Lurie 5 would have, possibly, is the delay 6 occasioned by the refund of her premium, 7 wouldn't it, the loss of the use of her 8 \$33.00? 9 A. Repeat it one more time. I mean, you're 10 asking -- you're getting multi-part 11 questions and then throwing -- 12 MR. SANSPREE: Just let him ask 13 it. 14 THE WITNESS: All right. 15 Q. Assuming for the purposes of my question 16 that Mr. Lurie, based on all the facts -- 17 I'm not asking you to agree. I'm asking 18 you to assume for the purposes of my 19 question, if the claim was not payable 20 according to what all took place, and the 21 provisions in the policy, and the 22 applicable law, then Ms. Lurie received 23 her refund of premium, so the only loss</p>	<p>1 handling this claim as opposed to simply 2 violation of industry standards, in your 3 view, and negligence? 4 A. They were intentionally looking for a way 5 to get rid of the claim. 6 Q. Excuse me? 7 A. I feel that after the claim manager 8 approved it and after Legal approved the 9 thing, then I think they intentionally 10 went looking for some other way to not pay 11 the claim. 12 Q. If, in fact, the policy was out of benefit 13 at the date of death, wouldn't that be a 14 legitimate reason, in your judgment, to 15 deny the claim? 16 A. Well, I mean, you would have to again -- 17 Q. Please answer my question, and then 18 explain it as long as you wish. 19 A. Repeat it one more time. 20 Q. See, that's our problem, is that you start 21 doing something other than answering my 22 question, and then you can't remember what 23 was asked of you.</p>

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<p>1 MR. BUTLER: Please read it back.  2 (Requested portion of Record  3 read by the Reporter)  4 A. Could be.  5 Q. Thank you.  6 In other words, you think the claim  7 could be payable if, in fact, the policy  8 was out of benefit at the date of the  9 death?  10 A. Well, I think this again --  11 Q. Can you answer first and then explain?  12 A. I'd like to explain it and then answer.  13 Q. Then we don't remember the question. But  14 go ahead.  15 A. Well, let's repeat the question one more  16 time since --  17 Q. See.  18 A. I get started and then you stop me and  19 then we lose the role.  20 Q. It's because you're answering something  21 other than the question, John.  22 A. I'm getting to your question. You're just  23 not --</p>	<p>1 Under what circumstances would you not,  2 under that scenario?  3 A. Well, I mean, in this one you've got a lot  4 of things that didn't go right.  5 Q. Yeah. But didn't I ask you to assume for  6 the purposes of my question --  7 A. But to assume is to get an answer that is  8 more in line with what you want to hear  9 and not in accordance with what I see.  10 Q. I understand that. I don't think I'm  11 going to get you to agree with me on every  12 provision, every issue in this case that  13 is my contention, Mr. Allen. But if you  14 agree that, unquestionably, this  15 particular policy was out of benefit on  16 the date of death, wouldn't that be a  17 legitimate reason to deny the claim? Yes  18 or no?  19 A. Could be.  20 Q. All right.  21 A. That's what it is. Because you want a  22 specific, and there are too many other  23 things that go in there that can cause a</p>
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<p>1 Q. Go ahead. Answer it as you want.  2 A. Okay. Well, give me the question again  3 and we'll start again.  4 Q. Do you remember it?  5 A. No.  6 Q. See.  7 MR. BUTLER: Give him the  8 question again.  9 (Requested portion of Record  10 read by the Reporter)  11 A. I'd say no, as a qualified, due to the  12 fact that you've got to determine what  13 factors surround the basis for denial. If  14 everything is clean, and everything was  15 done as it should be, then you may have a  16 legitimate reason. If it wasn't done in  17 accordance with what should have been  18 done, then you may not have a reason.  19 Q. Well, see, that's what my question is,  20 because you leave provisions in your  21 answer. You said if everything was done  22 appropriately and the policy was out of  23 benefit, you may have a legitimate reason.</p>	<p>1 variance.  2 Q. Are you working for Mr. Sanspre in this  3 case on an hourly rate?  4 A. Yes.  5 Q. And what is your hourly rate?  6 A. \$175.00.  7 Q. Okay. Approximately how many hours do you  8 have in the case?  9 A. Let's see. I sent one bill for 39.10  10 hours. And I may have another 11 or 12  11 hours that I haven't billed for on that.  12 Q. Can we get a copy?  13 A. You can have a copy of the whole thing.  14 If she wants to copy this and then send it  15 to you, you can have a copy of everything  16 I've got in here.  17 Q. Well, does that entire notebook include  18 everything that you used to form your  19 opinions in this case?  20 A. I mean, it doesn't include the treatises.  21 But as far as the documents, I mean, these  22 would be the other documents, and then  23 whatever documents I had in here.</p>

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<p style="text-align: right;">Page 142</p> <p>1 Q. I call myself marking the treatise that 2 you relied on for your opinions in the 3 case. But didn't -- We can go back 4 through it. But didn't we discuss all the 5 other treatises, and that you did not rely 6 on those for your opinions? Do you have 7 other treatises that -- 8 A. I've got other treatises. I mean, as far 9 as -- 10 Q. I'm only interested in those that you used 11 for opinions in this case, Mr. Allen. I 12 don't want to clutter the Record. 13 A. Yeah. 14 Q. If you did, then I want -- 15 A. I think as far as looking at that, that 16 has some -- on coverage aspects of the 17 things that I felt were germane. It's 18 nothing new that I didn't know. It's just 19 supportive to my position. 20 Q. I understand that. And are there others 21 other than this Exhibit 6? 22 A. No, sir. Again, we haven't -- there 23 wasn't anything --</p>	<p style="text-align: right;">Page 144</p> <p>1 though Alabama doesn't recognize an unfair 2 claims practice, they abide by those in 3 administering claims within the State of 4 Alabama. 5 Q. Okay. Well, what amounted to a violation 6 -- is it -- didn't you say Unfair Claims 7 Practice Act? 8 A. Well, it's referred to as the -- 9 Q. I'm trying to see how you referred to it 10 in your report. 11 A. I don't know that I've got -- That's just 12 -- I don't think I went into any unfair 13 claims practices on that. 14 Q. I think you did. 15 A. I may have. 16 Q. Mr. Allen's book is "Alabama Liability 17 Insurance Handbook," isn't it? 18 A. Right. 19 Q. And this is not liability insurance, is 20 it? 21 A. He covers a wide variety of insurance 22 claims, I think. So -- 23 Q. Can you find in your report any reference</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. What's that one? 2 A. That was on the personal insurance. It 3 didn't have anything on the adjusting. 4 Q. That's what I recalled. 5 A. This has some unfair claim practices, 6 which are across-the-board. 7 Q. You express opinions of unfair claims 8 practices in this case? 9 A. And then Bibb's book. 10 Q. On unfair claims practices, what is your 11 basis for expressing an opinion that the 12 handling of this claim was an unfair 13 claims practice? 14 A. Well, there's not an unfair claims 15 practice recognized in the State of 16 Alabama. But insurance companies who 17 handle claims across the nation are 18 required to abide by unfair claims 19 practices in their handling of claims. So 20 I think they would be subject to it in all 21 the states. And even though Alabama 22 doesn't have it, I think the folks -- from 23 what I've seen with other companies, even</p>	<p style="text-align: right;">Page 145</p> <p>1 to Unfair Claims Act? It's on page 7, I 2 see, about the middle of the page. You 3 say, "Since there are no claims procedures 4 or claims manuals, this is an unfair 5 claims practice." 6 A. Right. 7 Q. Okay. So you're saying that there is a 8 requirement under the law that an 9 insurance company have a claims manual and 10 claims procedures printed? 11 A. For Alabama there's not an unfair claims 12 practices law. But as far as the National 13 Association of Insurance Commissioners, 14 the NAIC, under Section C it says, 15 "Failing to adopt and implement reasonable 16 standards for the prompt investigation of 17 claims arising under insurance policies." 18 Q. And you say those can't be done by 19 experience and word-of-mouth of the claims 20 examiners? 21 A. I think you have to have some policies and 22 procedures that were evidenced in that 23 other case.</p>

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<p>1 Q. That doesn't say so, though, does it, what 2 you just read from NAIC? 3 A. It says, "Failing to adopt and implement 4 reasonable standards for the prompt 5 investigation of claims arising under 6 insurance policies." 7 Q. But that doesn't say it has to be a 8 written manual or written procedures, does 9 it? 10 A. Correct. But that other case I had 11 references written procedures. 12 Q. Which one? 13 A. Madison. 14 MR. SANSPREE: Maddox. 15 Q. That said you had to have written claims 16 procedures and manuals? 17 A. It references not having procedures, and 18 word-of-mouth stuff, leads itself to 19 problems. 20 Q. Does it say it's illegal? 21 A. I don't recall it saying it's illegal. 22 Q. This is where there was no mechanism to 23 ensure that applicants were treated</p>	<p>1 Do you want to read and sign or -- 2 A. Please. 3 Q. Okay. 4 MR. SANSPREE: I've got just a 5 few questions to follow up. 6 EXAMINATION 7 BY MR. SANSPREE: 8 Q. John, during your work experience with the 9 various insurance companies you've 10 testified to having worked with earlier, 11 would the process of gathering information 12 to see whether or not a claim was covered, 13 would that be the same for liability and 14 property insurance as it would be with 15 life insurance? 16 A. Yes. 17 Q. And would you also, when you're adjusting 18 on liability of property and insurance 19 claim, would you look at the policy 20 language to determine coverages and 21 exclusions just like you would in a life 22 insurance claim case? 23 A. Yes.</p>
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<p>1 uniformly during the underwriting process, 2 doesn't it? 3 A. That's part of it. Yes. 4 Q. Wasn't this case about underwriting? 5 A. It has underwriting. That's predominantly 6 underwriting. 7 Q. Well, is it on claims? 8 A. I think it speaks to the claim issues. 9 Q. Where? 10 A. As far as the fact of what you need to 11 have, in my opinion. 12 Q. Where? 13 A. It discusses claims from the standpoint of 14 bad faith, abnormal or just regular bad 15 faith. 16 Q. Yes, sir. But with regard -- You point 17 out to me where in that provision it says 18 you've got to have written procedures and 19 published guidelines for the handling of 20 claims. 21 A. It doesn't, to my recollection. It's 22 predominantly underwriting. 23 Q. Thank you.</p>	<p>1 Q. And would the procedures in doing so be 2 the same for liability and property cases 3 as it would with life insurance? 4 A. Yes. 5 Q. Would the industry standards be the same, 6 as it relates to property and casualty and 7 liability insurance, as it would be with 8 life insurance? 9 A. In the handling of claims, yes. 10 Q. And do you remember giving testimony for 11 me in a life case in front of Judge Dement 12 in Alegro versus Monumental case? 13 A. I remember Alegro. 14 Q. And was that a death case involving life 15 insurance? 16 A. I believe that's correct. Yes. 17 Q. And was your opinion accepted as an expert 18 opinion in Judge Dement's courtroom? 19 A. Yes, I believe so. I didn't give a 20 deposition, but I think I gave a report on 21 that. 22 Q. John, you gave some testimony earlier 23 about the first sentence at the top of</p>

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## FREEDOM COURT REPORTING

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<p>1 Defendant's 11, which states "Payment,"</p> <p>2 and then it goes on to read, "Each premium</p> <p>3 is payable in advance at our</p> <p>4 administrative office." Do you remember</p> <p>5 giving that testimony earlier?</p> <p>6 A. Yes.</p> <p>7 Q. Assume with me that Ms. Lurie put the</p> <p>8 premium payment in the mail on January 5th</p> <p>9 and addressed it to the administrative</p> <p>10 office. Would that premium have been paid</p> <p>11 at that administrative office at that</p> <p>12 time?</p> <p>13 MR. BUTLER: Object to the form.</p> <p>14 Calls for a legal</p> <p>15 conclusion. The witness is</p> <p>16 not competent to testify as</p> <p>17 to that.</p> <p>18 Q. In industry standards, would that premium</p> <p>19 have been payable at that time?</p> <p>20 MR. BUTLER: Object to the form.</p> <p>21 A. Yes.</p> <p>22 Q. And was Mr. Lurie, to the best of your</p> <p>23 knowledge, was he alive on January 5th,</p>	<p>1 MR. SANSPREE: It was just filed</p> <p>2 with a brief.</p> <p>3 MR. BUTLER: I understand that.</p> <p>4 A. I didn't make the decision. You know, I</p> <p>5 did my thing.</p> <p>6 Q. Is it your understanding -- Do you have</p> <p>7 knowledge that Judge Dement accepted your</p> <p>8 qualifications as an expert on life claims</p> <p>9 when you didn't even give any testimony in</p> <p>10 the case?</p> <p>11 A. Well, I gave a report. I don't know</p> <p>12 whether it was an affidavit or my report.</p> <p>13 I don't recall.</p> <p>14 Q. Well, were you examined as to your</p> <p>15 qualifications as an expert in life claims</p> <p>16 in the Alegro case?</p> <p>17 A. I don't recall.</p> <p>18 Q. How do you know whether the procedures</p> <p>19 would be the same in life insurance</p> <p>20 claims-adjusting and property and</p> <p>21 casualty, if you have no experience in</p> <p>22 life insurance claims-adjusting?</p> <p>23 MR. SANSPREE: Object to the</p>
Page 151	Page 153
<p>1 2004?</p> <p>2 A. Yes.</p> <p>3 Q. That's all I've got.</p> <p>4 A. That would have been the 4th, which would</p> <p>5 have been when it was put in the mailbox,</p> <p>6 and then the 5th when it was picked up.</p> <p>7 REEXAMINATION</p> <p>8 BY MR. BUTLER:</p> <p>9 Q. So your date is the 4th? All you've got</p> <p>10 to do is put it in the mailbox and that's</p> <p>11 it?</p> <p>12 A. It was addressed to the administrative</p> <p>13 office.</p> <p>14 Q. Okay. Is the Alegro case on your list?</p> <p>15 A. I didn't give a deposition in that one.</p> <p>16 Q. Did you give trial testimony?</p> <p>17 MR. SANSPREE: No. He just gave</p> <p>18 a report.</p> <p>19 A. No. I think it was just a report.</p> <p>20 Q. Well, explain to me how Judge Dement would</p> <p>21 have had an opportunity to accept your</p> <p>22 testimony as an expert based on a report,</p> <p>23 as opposed to sworn testimony.</p>	<p>1 form.</p> <p>2 A. That would be from having reviewed and</p> <p>3 worked with life claims as an expert and</p> <p>4 as a consultant.</p> <p>5 Q. For lawyers in civil cases?</p> <p>6 A. Yes.</p> <p>7 Q. Thank you, sir. That's all.</p> <p>8 (Off-the-Record discussion)</p> <p>9 MR. BUTLER: Let's mark this as</p> <p>10 our next number, number 12.</p> <p>11 We will mark it as 12 and</p> <p>12 we'll get that back to you,</p> <p>13 Mr. Allen.</p> <p>14 (Defendant's Exhibit 12 marked</p> <p>15 for purposes of identification)</p> <p>16 MR. BUTLER: What is 12?</p> <p>17 THE WITNESS: Exhibit 12 is a</p> <p>18 three-ring binder that I</p> <p>19 prepared that has my</p> <p>20 handwritten notes,</p> <p>21 deposition summaries, and</p> <p>22 documents that were produced</p> <p>23 by the plaintiff and</p>

39 (Pages 150 to 153)

FREEDOM COURT REPORTING

Page 154

1 defendant.  
 2 MR. BUTLER: Thank you, sir.  
 3  
 4 \* \* \* \* \*  
 5 FURTHER DEPONENT SAITH NOT  
 6 \* \* \* \* \*  
 7  
 8 REPORTER'S CERTIFICATE  
 9 STATE OF ALABAMA,  
 10 MONTGOMERY COUNTY,  
 11 I, Jackie Parham, Certified Shorthand  
 12 Reporter and Commissioner for the State of  
 13 Alabama at Large, do hereby certify that I  
 14 reported the deposition of:  
 15 JOHN H. ALLEN,  
 16 who was first duly sworn by me to speak the  
 17 truth, the whole truth, and nothing but the  
 18 truth, in the matter of:  
 19  
 20 IN THE UNITED STATES DISTRICT COURT  
 21 FOR THE MIDDLE DISTRICT OF ALABAMA  
 22 SOUTHERN DIVISION  
 23

Page 155

1 KAREN LURIE,  
 2 Plaintiff,  
 3 versus 1:06-CV-0034MEF  
 4 GLOBE LIFE AND ACCIDENT  
 5 INSURANCE COMPANY, et al.,  
 6 Defendants.  
 7  
 8 on Thursday, the 7th day of December, 2006.  
 9 The foregoing 154 computer-printed pages  
 10 contain a true and correct transcript of the  
 11 examination of said witness by counsel for the  
 12 parties set out herein. The reading and signing  
 13 of same is hereby not waived.  
 14 I further certify that I am neither of kin  
 15 nor of counsel to the parties to said cause, nor  
 16 in any manner interested in the results thereof.  
 17  
 18  
 19 JACKIE PARHAM, Certified  
 20 Shorthand Reporter and  
 21 Commissioner for the State  
 22 of Alabama at Large  
 23

40 (Pages 154 to 155)



**John H. Allen, AIC, CFE**

**Consultant**

Phone (205) 592-4507

Fax (205) 595-7832



October 22, 2006

Christopher E. Sanspree, Esquire  
PO Box 4160  
Montgomery, Alabama 36103-4160

**Re: Karen Lurie v. Globe Life and Accident**

Dear Mr. Sanspree:

Per your request I have reviewed the documents you provided in the above referred matter. Attached as Exhibit "A" is a listing of the documents and Industry Treatises that I reviewed in the formulation of my opinion.

I am a Consultant and Expert Witness on Insurance Claims. Attached as Exhibit "B" is a copy of my CV which reflects my training, education and experience in the field of insurance. I have been admitted as an Expert Witness on Claims and Claims handling in the State and Federal Courts in Alabama and in State Court in Mississippi.

Based on my review of the pertinent information and documents to-date, the following opinions are rendered in evaluation of this claim. It should be noted that these opinions are not legal opinions and I am not a lawyer. The opinions expressed are from a claims handling perspective. If additional documentation is reviewed and examined, it may necessitate the supplementation of the opinions expressed in this report. Once any additional information is reviewed, and if it changes any opinions I have expressed, or results in the need to modify and supplement the expressed opinions, I will do so upon completion of the review of these documents. I have first hand personal knowledge of the matters contained herein and I am competent to affirm and testify to same.

Post Office Box 531166 Mountain Brook, Alabama 35253

**DEFENDANT'S  
EXHIBIT**

8



Page 2:  
Lurie v Globe

David Lurie obtained a policy of Insurance from Globe Life in the amount of \$ 100,000.00, that was effective 04-28-03. This was an Accidental Death Policy with family coverage under certificate number - 14-J522138.

All payments were made until a payment was missed for the due date of November 28, 2003. By a letter dated 01-02-04, from Globe Life (Lurie 0020) to David Lurie it indicated that this was a final notice. The letter stated that if the premium was received by January 17, 2004, that the policy would be reinstated. The options for payment were 2, 3, 6 and 12 months. After receipt of this notice Mrs. Lurie mailed a check in payment on 01-05-04, in the amount of \$ 33.60 for two Months of payments that paid the policy to 01-28-04. The check on their joint account was dated 01-04-03, and due to the New Year date change this was an error on the year. The check was written 01-04-04, in the amount of \$ 33.60 and the policy number was Correctly provided in the "FOR" section of the check.

The Certificate provisions provide a Grace Period of 31, days (Lurie 14) will be allowed each Insured of each premium after the first, during which period his or her insurance shall continue in force. Since this was not the first payment there was a Grace Period of 31 days for EACH premium due.

The Certificate provides for Reinstatement at any time within a "one year after default in premium payments, If:"

- a. The insured provides Evidence of Insurability satisfactory to Us; and
- b. All overdue premiums are paid."

Barbara Hernandez, of Globe, indicated in her deposition, page 23, that it was Standard practice of the company to offer reinstatement of the policy in a Premium Notice. She further stated that after 60 days they do not send another offer of reinstatement and there are notices after one year( page 24). The premium on the Lurie policy was processed by Globe on 01-16-04. Processed means that they cashed the check and recorded the transaction in the computer system. On page 18 she states that the system will not allow a payment to process after a certain number of days. The Lurie payment was handled manually by a Clerk that keyed the information into the computer system. The computer allowed the transaction and the Clerk processed the payment into the system. There was no hold or anything on the policy.

Page 3:  
Lurie v. Globe

It should be noted that while the Certificate says there is a Grace Period of 31 days for each payment the Reinstatement portion clearly shows that this is available up to **ONE YEAR** after any default in premium.

There is no question that Mr. and Mrs. Lurie intended to reinstate the policy and This was accepted and reinstated by Globe as part of their standard practice to accept premium within one year of a lapsed policy and allow 31 days for each payment due. At the time of the payment there were two payments due to reinstate the policy with a paid to date of 01-28-04.

Ms. Hernandez indicated in her deposition ( page 18) that you know if someone is late on premium and it is part of the account information that comes up on the computer. When you get the screen of information it clearly provides this information and you know by the PAID TO DATE information shown. The Final Notice gave the due by date of 10-17-06, and the payment was processed for two months coverage with a paid to date of 01-28-04.

Mr. Mendez indicate also in his deposition ( page 10 & 18) that for any call received on a policy that Globe would know immediately if a policy had lapsed or if the premium needed to be paid.

Review of the documents indicate that it is Globe's common practice not to require any Evidence of Insurability on policies less than 60 days past due. This evident by the actions of Globe. The payment was processed and there was no request by Globe to David Lurie to provide any Evidence of Insurability. At the time of the payment being Mailed, January 5, 2004, there was absolutely no change in the health condition of Mr. Lurie that would restrict reinstatement. Mrs. Lurie mailed the payment immediately after receipt of the Final Notice and the payment was processed , check cashed, on 01-16-04 and prior to the due date of 01-17-04. The reinstatement was made in accordance with Globe's standard practice and procedure with the policy being effective until 01-28-04.

The documents reflect that Mrs. Lurie retained the services of an Attorney Matthews who made calls and written notification to Globe, in January, 2004, concerning the accident and death of Mr. Lurie.

In the deposition of Sandy Whitaker she indicates, (page 149), that Globe has checks and balances to see a claim is not mishandled. On page 81, of her deposition she states that in the Claims Department of Globe there is no procedural manual or anything. Their training is based on one on one training so there is nothing in writing at Globe that Sets out how the claims on any policies are administrated. There is nothing in writing for training an individual( page 83).

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Lurie v Globe

Other than the policies everything else is by word of mouth and only known in the minds of the different individuals in the Claims Department. This is a Deviation From Industry Standards to administrate Claims without any written Policies and Procedures to guide the individuals handling the claims nor train the persons that will be handling claims.

Ms. Whitaker admits;

Page 84: She approves the claim and suggest payment of the Claim.

She did not verify the policy was in force.

She did not verify the premiums had been made.

After she approves the claims and Legal approves the claim it is then up to the Claims Examiner to determine what benefits due under the policy.

This is a deviation from Industry Standards where the Manager approves payment, Legal approves payment and then it is left to the Claims Examiner to determine any coverages due. Industry Standards are just the opposite. First you review the policy and determine if it was in effect on the date of loss and if the Company had received and Accepted the premium before or after the due date. The Claims Examiner must explain the coverages afforded under the policy and then Management will approve the payment. Here the payment was initially Approved by the Manager and Corporate Legal and then it was submitted to the Claims Examiner to look for a denial basis. Based on the Training of the Claims Examiner being only oral it is obvious that Globe never considered the ramifications of Acceptance of Premium after lapse and cancellation. It is obvious from the documents reviewed that there is nothing to show that the Claim Manager nor Corporate Legal gave consideration to this CRITICAL aspect of coverage.

Review of the Book - ALABAMA LIABILITY INSURANCE HANDBOOK -  
BY: Attorney Bibb Allen (No relation to me)

He states: on page 509 of his book - 23-7(g). That:

**Acceptance of Premium After Cancellation Waives Cancellation.**

"Where an insurer accepts a premium after knowledge of a breach of policy provision, the insurer waives its right to cancel the policy. - Nationwide Mut. Ins. Co. v. Clay, 525 So.2d 1339 (Ala. 1987), cert denied, 488 U.S. 1040 (1989).

Page 5:  
Lurie v. Globe

Bates document LURIE 0005 shows that payment was approved with full knowledge that there was a late premium payment. This was correct as Globe routinely accepts overdue premium for up to one year and routinely reinstates policies upon receipt of all the overdue premium. Globe's policy does not show it questions insurability within 60 days and Mr. Lurie died from an accident that had nothing to do with his insurability. There was nothing to contest about Mr. Lurie's death and his policy application. The cause of death was accidental and was specifically covered under the policy. Moreover since the deposition testimony of Mrs. Lurie states, page 78, Globe Life was notified of the Insured's death as of 01-12-04, before cashing the premium. On page 79 it shows that even though Globe knew of the death they said that this was not a problem with the policy being in force as long as the premium was received by January 17, 2004. The records are undisputed in that the premium was cashed on January 16, 2004. In fact there is no dispute that Globe Life was notified of the Insured's death by Attorney Matthews and Mrs. Lurie as of January 12, 2004. This was before the date that Globe Life cashed the check. Give the fact that the above is undisputed Globe Life accepted the risk, reinstated the policy and should have paid the claim. All defenses as to the Insured being deceased were thereby waived and the policy was reinstated. Please refer to Bibb Allen's book on this issue.

Globe elected not to reject the premium payment full well knowing of the Insured's death, and that the crediting of the past due premium from a lapse, a breach of policy conditions, would reinstate coverage and provide coverage forward of the dates in arrears.

Globe knew that the policy had lapsed, a breach of policy conditions, Globe knew of the Insured's death and then accepted the premium payment from the Insured. The requirement that the payment had to be manually input reflected on the knowledge of Globe that they were accepting payment after the known breach of policy conditions. This is within the standard Company procedure to reinstate any policy up to one year when the payment is made for all amounts due and to not require any evidence of insurability within 60 days. Based on the Globe procedures the policy was correctly reinstated as the payment was credited to the Policy before the due date stated in the final notice, there was no requirement for evidence of insurability, and all overdue premiums had been paid. The policy was effective and paid up to 01-28-06. Based upon Globe's own testimony, the claim should have therefore been paid.

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Lurie v. Globe

It has been my experience that the date anything is mailed is considered as the date the item was transferred to the addressee. Example: Taxes are Due on the 15<sup>th</sup> of April. As long as the item is mailed by that date it is considered as having been received for delivery to the IRS/State. Mrs. Lurie mailed the payment on the 5<sup>th</sup> of January for the policy to be reinstated and this was accepted and done by Globe on 01-16-04. When the payment was mailed there was no conceivable way that Ms. Lurie could have known of the impending accidental doom that was facing her husband. The payment was made in Good Faith and was appropriately credited to the policy in accordance with Globe's accepted and usual procedure on accepting past due premiums and reinstating a lapsed policy without evidence of insurability within 60 days of a lapsed policy.

After Globe knew of the breach of the policy condition and the Insured's death they elected to waive the breach and reinstate the policy. It is a Deviation of Industry Standards to have knowledge of the Insured's death, accept the premium, acknowledge and accept the late payment, reinstate the policy in accordance with accepted and standard practice of the Company and then deny the claim with coverage in full force and effect.

Bates document Lurie - 0019, Policy information screen shows that ;

The last premium was cash.

The policy was paid to 01-28-04

The policy was billed to 01-28-05

The last bill was 01-18-04.

There is no question the policy was reinstated and in fact had been billed again after the payment was posted on 01-16-04, and the policy was paid to 01-28-04.

Bates document Lurie-0047 also shows the policy is paid to 01-28-04. This is a different document from Lurie -0019.

There is no question that Globe accepted the premium, waived the lapse and reinstated the policy back to 11-28-03 and recorded that the policy was paid to 01-28-04. This was accepted and normal Company procedure.



Page 7:  
Lurie v Globe.

The Claims Examiner for Globe only started to look for a denial basis after payment was approved and the claim was recommended to be paid by the Claim Manager and Corporate Legal. Claim Manager Whitaker said it was the Claims Examiner's role to go in behind her and bring anything that appears inappropriate to her attention. This is a Deviation from Industry Standards. Based on Globe having no written procedures and the Claims Examiner only receiving limited verbal training it is obvious that neither the Claims Examiner nor anyone at Globe properly understood that Globe waived any lapse/cancellation by accepting the premium on 01-16-04, and within the time limit set by Globe of 01-17-04.

Claim Manager Whitaker further acknowledged ( page 90 of depo.) that She doesn't know if she verified that the system indicated that the policy was paid up to January 28, 2004. On page 94 she further indicated that Globe did not verify any payments before starting an investigation. This is also a Deviation from Industry Standards.

The first thing Claims Examiner should do is verify the coverages and the effective dates. Had this been done then, CM Whitaker would have known that coverage was in force for the date of loss and that Globe had accepted the reinstatement in accordance with the usual and customary practice of the Company and within the stated time frame. Since there are no Claims procedures or Claim manuals, this is an Unfair Claims Practice , to guide to people in Claims or Corporate Legal no one understood that once the company had been notified of the Insured's death, the premium was accepted and posted that there was an absolute waiver of the cancellation/lapse. No one at Globe recognized that the claim was undeniable due to their knowledge and actions. The policy provides for reinstatement, the policy was reinstated and then when the claim arrived Globe did not administrate the policy in accordance with the written and accepted conditions providing coverage for this loss.

Even after recognition of a coverage problem there was no notice sent to the Insured of any coverage problem. Industry Standards call for the Insured to be notified for any coverage problem in the form of a Reservation of Rights or a Non-Waiver letter. On page 44 of the Whitaker deposition she indicates that she does not even know what a Reservation of Rights is and she has had 30 years in claims. Any experienced claims examiner who has had proper Industry Training would know what a Reservation of Rights is and that it needed to be sent on any issue of coverage. There is nothing in place to keep Globe from making up the rules as they go along in handling claims.

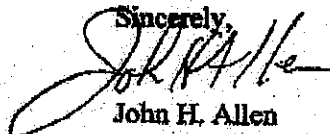
Page 8:  
Lurie v Globe

This reflects further how Globe cannot follow Industry Standards as they have no written procedures to inform and train people of what the Industry Standards are and only rely on word of mouth from 2 people to train their personnel. The Management has nothing to guide anyone in the administration of claims and this is why this claim was wrongfully denied. No one at Globe knew that Based on Industry Standards and Alabama Legal Opinions- See Bibb Allen's book- that Globe had waived its cancellation/lapse rights based on acceptance of the premium. Apparently, it was an intentional act on the part of Globe not to have any written policies and procedures and Globe acted in a Deviation from Industry Standards by failing to have any written guidelines to administer their policies. This is an Unfair Claims Practice. ( see Loyal American v. Mattiace 679 So.2<sup>nd</sup> 229 Ala 1996).

Ms. Whitaker and the Legal Department were correct in their initial approval of the claim and authorized payment of benefits based on the facts as of May 6, 2004, Whitaker Depo Page 73. After this a Globe Claims Examiner apparently brought forth a conceived reason for a denial of benefits that was erroneous from it's inception. Since no one has any written guidelines, procedures, understanding of Industry Standards, or an understanding of Alabama Law the claim was wrongfully denied.

In sum it is my expert opinion that the denial of benefits in this case was inconsistent with Industry Standards and deviated from Industry Standards.

If you have any further questions - please advise.

Sincerely,  
  
John H. Allen

**EXHIBIT "A"**

- 1). Deposition of Barbara Hernandez.
- 2). Deposition of Daniel Mendoza
- 3). Deposition of Sandy Whitaker
- 4). Bates Documents - Laurie 0001 to 0062
- 5). Multiple Industry Treatises-  
Alabama Liability Insurance Handbook - Attorney Bibb Allen  
Liability Claims Practices - 1<sup>st</sup> Edition - American Institute for Chartered  
Property Casualty Underwriters/Insurance Institute of America.  
Personal Insurance - 1<sup>st</sup> Edition - Lannie Reida and Oakes.
- 6). Attorney Matthews correspondence of 10-17-06 to Attorney Poundstone.
- 7). Deposition of Karen Lurie.
- 8). Case Law - Loyal American Life Ins. v. Mattiace. Ala.1996

Exhibit "B"

CURRICULUM VITAE



JOHN H. ALLEN, A I C, C F E  
P. O. BOX 531166  
MOUNTAIN BROOK, ALABAMA 35253  
OFFICE (205) 592-4507  
FAX (205) 595-7832



**EDUCATION:**

University of Alabama - B. S. - Commerce and Business Administration - 1971  
Aetna Advanced Claim School - 1984  
Insurance Institute of America - Associate in Claims - 1991  
Multiple Seminars conducted in Proper Claims Handling  
Society of Certified Insurance Counselors - Agency Management Institute - 1994  
Association of Certified Fraud Examiners - Certified Fraud Examiner - 1996

**EMPLOYMENT:**

John H. Allen Consulting - January 1993 to Present

Consultant and expert witness in insurance claims coverage and claims handling involving commercial lines, bonds, personal lines, health, life, workers compensation, and disability policies for Bad Faith, Fraud and Tort of Outrage in claims handling.

Stockholder audits of carrier claims practices and sales.

Investigations of claims and accidents involving, but not limited to: trucks, autos, general liability, dram shop, commercial liability, personal liability, professional liability, workers compensation, real and personal property, products liability, uninsured/underinsured motorist, fire loss, accidental shootings, and witness locations. Disability Coverage, Indemnity Coverage, Agent Fraud, Agent E&O. Carrier liabilities to other carriers in policy coverage. Pattern and Practice, Group Policies. Life Insurance Fraud.

Service of Process.

Aetna Casualty and Surety - July 1983 to December 1992

Responsible for the complete development and disposition of complex and unique claims / catastrophic cases / lawsuits within Alabama. Technical advisor on technical claim related matters. Counsel and assisted in training of claims personnel. Coordinator of departments technical training. Reclamation, Fidelity, and Surety Bonds. All hazardous Waste claims for the state. Commercial auto, trucking, property, medical malpractice claims. Extra-contractual suits for state involving bad faith, fraud and tort of outrage. Workmen's compensation claims. Large account consultations of pending claims.

-2-

Stonewall/Dixie Insurance Companies 1979 - 1983

Claims Manager – Personal lines. Supervised Auto and Property Unit, Subrogation Unit of handling of claims in 26 states.

Responsible for training and supervision of claims examiners for each unit, granting of authority for settlement of claims in each unit. Coverage approval for acceptance and denial of claim.

Coordination of defense for cases.

Claims Examiner – Liquor Liability Unit. Handling of investigations and directing independent investigations on Dram Shop cases in Michigan and Minnesota. Evaluated and negotiated settlements of claims, coordination of defense.

Claims Examiner – Auto Unit

National Producers Life Insurance Company 1978 – 1979

Consultant for litigation and accounting systems.

Alabama Power Company 1971 – 1978

Resident Claims Agent – Responsible for investigation, evaluation and settlement or defense of product liability, general liability, auto, truck, and electrical contact claims.

Workmen's compensation claims, employee dishonesty investigations, and power theft investigation.



1. Paul Turner v. Liberty National Fire Ins.  
A. Plaintiff Attorney Don Word  
B. Defense Attorney Tom Ellis  
Circuit Court of Jefferson County, Alabama  
Trial in Butler, Alabama
2. Susie Palmer v. State Farm Insurance  
A. Plaintiff Attorney James Thompson  
B. Defense Attorney Bert Nettles  
Circuit Court of Tuscaloosa County, Alabama  
Trial in Tuscaloosa, Alabama
3. Pennsylvania National Mutual Ins. Co. v. The Tape-Craft Corporation, Aetna Casualty and Surety Co., Liberty Mutual Ins. Co.  
A. Plaintiff Attorney Susan S. Hayes  
B. Defense Attorney Christopher M. Hopkins  
Circuit Court of Calhoun County, Alabama  
Trial in Anniston, Alabama
4. Danny & Cheryl Nixon v. Norman Wilder and Fire Insurance Exchange.  
A. Plaintiff Attorney Terrell Wynn  
B. Defense Attorney Robert McKenzie  
Circuit Court of St. Clair County, Alabama  
Trial in Pell City, Alabama
5. Karen Shelby v. Safeway Insurance Company  
A. Plaintiff Attorney Roger K. Fuston  
B. Defense Attorney Tom Ellis  
Circuit Court of Jefferson County, Alabama  
Trial in Birmingham, Alabama
6. Luellin Wagner v. National Security Fire and Casualty Co. Inc.  
A. Plaintiff Attorney Tom Willingham  
B. Defense Attorney Rod Nelson  
Circuit Court of Jefferson County, Alabama  
Trial in Birmingham, Alabama
7. CCEDC v. National Security Fire and Casualty Co. Inc.  
A. Plaintiff Attorney Chris Hopkins & Virginia Hopkins  
B. Defense Attorney Charlie Gaines

8. Carolin Marie Barton v. Shelter Mutual Insurance Company  
A. Plaintiff Attorney - Jonathan Lowe  
B. Defense Attorney - Nicholas J. Steles

9. Ava Jackson vs. Crossroads Insurance et al.

- A. Plaintiff Attorney - Deborah McDonald  
B. Defense Attorney - Richard Edmonson

Page 2:

12. Joseph Moorer v. Republic American Life.
  - A. Plaintiff Attorney : Dee Miles
  - B. Defense Attorney : David Allred
13. John Carton v. Casualty Reciprocal Exchange
  - A. Plaintiff Attorney Richard D. Stratton
  - B. Defense Attorney . J. Michael Tanner
14. Campbell v. Golden Rule Insurance
  - A. Plaintiff Attorney Tom Dutton
  - B. Defense Attorney Ben Albritton
15. Paul Turner v. Liberty National Fire Ins.
  - A. Plaintiff Attorney Don Word
  - B. Defense Attorney . Tom E. Ellis
16. Williams v. Ford Motor Credit
  - A. Plaintiff Attorney Tom Mathvin
  - B. Defense Attorney Unknown
17. Alfa v. Alabama City Church of God
  - A. Plaintiff Attorney Jim Sasser
  - B. Defense Attorney . Tony Hebson
18. Ava Greene v. Washington National Insurance Co.
  - A. Plaintiff Attorney Banks Herndon
  - B. Defense Attorney Bo Perry and Frank Lankford
19. Colonial Life and Accident Ins. Co. v. Home Insurance Co
  - A. Plaintiff Attorney Ross Forman, Robert Given
  - B. Defense Attorney S. Allen Baker Jr.
20. Susie Palmer v. State Farm Insurance
  - A. Plaintiff Attorney James Thompson
  - B. Defense Attorney Bert Nettles
21. Murrell Campbell v. Central Reserve Life Insurance
  - A. Plaintiff Attorney Houston Howard
  - B. Defense Attorney Joe Carpenter
22. Pennsylvania National Mutual Insurance Co. v. The Tape- Craft Corporation, Aetna Casualty & Surety Co., Liberty Mutual Insurance Co.
  - A. Plaintiff Attorney Susan S. Hayes
  - B. Defense Attorney Christopher M. Hopkins

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23. Industrial Distribution Services v. U.S.F. & C.  
A. Plaintiff Attorney Richard D. Stratton  
B. Defense Attorney Rod Nelson
24. Missouri Electric Works, et al. v. U.S.F. & C.  
A. Plaintiff Attorney John Cowling  
D. Defense Attorney Lon A. Berk
25. J.A. Faircloth & Co, Inc. v. U.S.F. & C.  
A. Plaintiff Attorney Randall B. James  
B. Defense Attorney James J. Bushnell, Jr.
26. Al. Central Credit Union v. J. and B. Padgett v. CUNA Mutual  
A. Plaintiff/Counterdefendant Al. Central  
B. Defendant/3RD Party Plaintiff J&B Padgett, Dawn W. Hare  
C. Third Party Defendant CUNA Mutual Ben Brooks
27. Danny and Cheryll Nixon v. Norman Wilder and Fire Ins. Exch.  
A. Plaintiff Attorney Terrell Wynn  
B. Defense Attorney Robert McKenzie
28. Jerry Bell v. Nationwide Insurance  
A. Plaintiff Attorney Tom Willingham  
B. Defense Attorney Edgar Elliott IV
29. Wilburn v. Illinois National Insurance  
A. Plaintiff Attorney Joey James  
B. Defense Attorney Tony Fox
30. Swinney v. Empire Fire and Marine  
A. Plaintiff Attorney Joey James  
B. Defense Attorney Woody Sanderson
31. Swinney v. General Agents Insurance Company of America  
A. Plaintiff Attorney Joey James  
B. Defense Attorney Joe Stott
32. Michael E. Chadwell vs. American States Insurance  
A. Plaintiff Attorney Desmond Tobias  
B. Defense Attorney : Larry Bradford

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33. Safeway Insurance Company vs. David Mann and Estate  
of Shawn Mann  
A. Plaintiff Attorney : Deborah Braden  
B. Defense Attorney : Philip K. Seay.
34. Shady Grove Baptist Church vs. State Farm Ins.  
A. Plaintiff Attorney : Patrick Patronas  
B. Defense Attorney Bert Nettles
35. Ted Thrift vs. UNUM Life Insurance Co.  
A. Plaintiff Attorney: Thomas P. Willingham  
B. Defense Attorney : Carter H. Dukes
36. Luellin Wagner vs. National Security Fire and Casualty Co.,  
Inc.  
A. Plaintiff Attorney: Thomas P. Willingham  
B. Defense Attorney: Rod Nelson
37. Planet Insurance vs. C & C Riggers  
A. Plaintiff Attorney : Taz Shepard  
Vernon Wells  
B. Defense Attorney Robert Potter
38. CCEDC vs. National Security Fire and Casualty CO. Inc.  
A. Plaintiff Attorney : Chris Hopkins Virginia Hopkins  
B. Defense Attorney : Charlie Gaines
39. Ava Jackson vs. Crossroads Ins. et al.  
A. Plaintiff Attorney : Deborah McDonald  
B. Defense Attorney: Richard Edmonson
40. Carolin Marie Barton v. Shelter Mutual Insurance company  
A. Plaintiff Attorney : Jonathan Lowe  
B. Defense Attorney : Nicholas J. Steles



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41. Thompson Tractor Company vs. U. S. F. & G.
  - A. Plaintiff Attorney : Blane H. Crutchfield
  - B. Defense Attorney : Tom Coleman
42. Mary Pelt, et al. Vs. Liberty National Life Insurance Company
  - A. Plaintiff Attorney : Booker T. Forte Jr.
  - B. Defense Attorney : Bill Donald
43. Southern Cleaning Service vs. C N A and R L Insurance Companies
  - A. Plaintiff Attorney - Alan C. Furr
  - B. Defense Attorney - C N A - Bryan S. Tyra
  - C. Defense Attorney - R L I - Brenan G. Ely
44. Joan Palmer vs. New York Life
  - A. Plaintiff Attorney - Joey James
  - B. Defense Attorney - John N. Bolus
45. Mr. And Mrs. Barakat vs. Nationwide Insurance
  - A. Plaintiff Attorney - Jason Shamblin
  - B. Defense Attorney - Lynn Hare

A DETACH HERE. A IMPORTANT: RETAIN THIS PORTION FOR YOUR RECORDS.

**Globe Life And Accident Insurance Company**  
Globe Life Center • Oklahoma City, Oklahoma 73184

**F I N A L   N O T I C E**

DUE DATE	POLICY NUMBER	INSURED	2 MONTHS	3 MONTHS	6 MONTHS	12 MONTHS
11-28-03	14J522138	DAVID LURIE	33.60	49.40	97.00	186.60

January 2, 2004

Dear David Lurie:

Our records show that we have not received the premium that was due on November 28, 2003. That is why we are sending this friendly reminder.

The reasons for starting this plan are the same good reasons for keeping it. Your insurance provides valuable protection and we want to make sure it is there when you need it. If you have already mailed in your payment, please accept our thanks.

If you have not had a chance to do so, please send in your payment along with the attached notice and the benefits of your policy will be reinstated provided the insured is still in good health. We must receive your payment by January 17, 2004.

For your convenience your premiums can be charged to your VISA or MasterCard. To choose this option, please complete the Credit Card Payment Option above, sign it, and return it in the enclosed envelope. We will charge your credit card for the total amount of premium due to keep your policy in force. After that, we will charge your credit card on the due date for the amount shown above.

Anytime we can be of assistance, please call or e-mail us at CS@2701410.com. Thank you for permitting Globe Life to provide your insurance.

Sincerely,

*Mark S. McAndrew*

Mark S. McAndrew  
Chairman and  
Chief Executive Officer

FIN 18-002

DEFENDANT'S  
EXHIBIT

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LURIE0025